



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

09/11/2012

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 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Tuesday, September 25, 2012

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

<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 12-01 and ZC 12-01**
 Date of Adoption: **8/29/2012** Date Mailed: ~~8/31/2012~~ **9/4/2012**
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **4/24/2012**

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 change the Comprehensive Plan Map designation of an 80.5 acre parcel from Forest to Farm Forest. This proposal also changes the Zoning Map designation of the subject property from Timber Conservation (TC) to Farm Forest Overlay (FFO). The FFO zone would allow the property owner to apply for a winery on the property.

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

Plan Map Changed from: **Forest** to: **Farm Forest**
 Zone Map Changed from: **TC** to: **FFO**
 Location: **One property south of 17950 Highway 22, Sheridan** Acres Involved: **80**
 Specify Density: Previous: **80 acres** New: **80 acres**

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"/> |

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. 002-12 (19308) [17158]

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
9 In the matter of Plan Amendment PA 12-01 and)
10 Zone Change ZC 12-01 that would authorize a)
11 Comprehensive Plan Map amendment and Zoning)
12 Map Amendment on an approximately 80.5 acre)
13 property located at T6S, R6W, Section 35, Tax Lot)
14 504 and T6S, R6W, Section 34, Tax Lot 406)
15
16
17

18 **ORDINANCE NO. 12-06**
19
20

21 **WHEREAS**, the Board of Commissioners held a public hearing on August 15, 2012 with
22 due notice of such public hearing having been given, and provided an opportunity for public
23 comments and testimony; and
24

25 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
26 Amendment PA 12-01 and Zone Change ZC 12-01 from the Polk County Hearings Officer based
27 upon his public hearing and conclusions; and
28

29 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
30 Amendment PA 12-01 and Zone Change ZC 12-01 from Polk County Planning staff based upon
31 the findings and evidence in the record; and
32

33 **WHEREAS**, on August 15, 2012, the Board of Commissioners publicly deliberated and
34 unanimously passed a motion to approve Plan Amendment PA 12-01 and Zone Change ZC 12-
35 01; now therefore,
36

37 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
38

39 Sec. 1. That Polk County adopts the findings for Plan Amendment PA 12-01 and Zone
40 Change ZC 12-01 located in the Hearings Officer's recommendation as shown on
41 Exhibit C.
42

43 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for the
44 approximately 80.5 acre property; depicted as Tract 4 on County Survey 15517
45 and identified on the Assessment Map as T6S, R6W, Section 35, Tax Lot 504 and
46 T6S, R6W, Section 34, Tax Lot 406; from Forest to Farm Forest as shown on
47 Exhibit A.
48

1 Sec. 3. That Polk County amends the Polk County Zoning Map for the approximately
2 80.5 acre property; depicted as Tract 4 on County Survey 15517 and identified on
3 the Assessment Map as T6S, R6W, Section 35, Tax Lot 504 and T6S, R6W,
4 Section 34, Tax Lot 406; from Timber Conservation (TC) to Farm Forest Overlay
5 (FFO) as shown on Exhibit B. As recommended by the Hearings Officer, the
6 subject property shall remain subject to the standards for development in the Deer
7 and Elk Winter Range listed in PCZO Chapter 182; including PCZO 182.050(A).

8
9 Sec. 4 Polk County amends the Polk County Zoning Ordinance text so that the effective
10 date of the Official Zoning Map listed under PCZO 111.090(A) is changed to
11 August 29, 2012.

12
13 Sec. 5. Applications Plan Amendment PA 12-01 and Zone Change ZC 12-01 were
14 evaluated concurrently, and approval of each application is dependent upon
15 approval of the other. Therefore; both applications must become effective in order
16 to implement this approval.

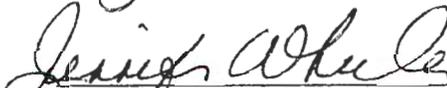
17
18 Sec. 6. An emergency is declared, and the provisions of this ordinance become effective
19 upon its adoption.

20
21 Dated this 29th day of August 2012 at Dallas, Oregon.

22
23 POLK COUNTY BOARD OF COMMISSIONERS

24
25 
26 _____
27 Mike Ainsworth, Chair

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29 
30 _____
31 Craig Pope, Commissioner

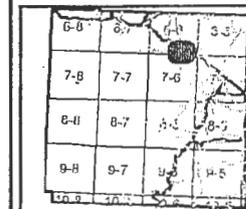
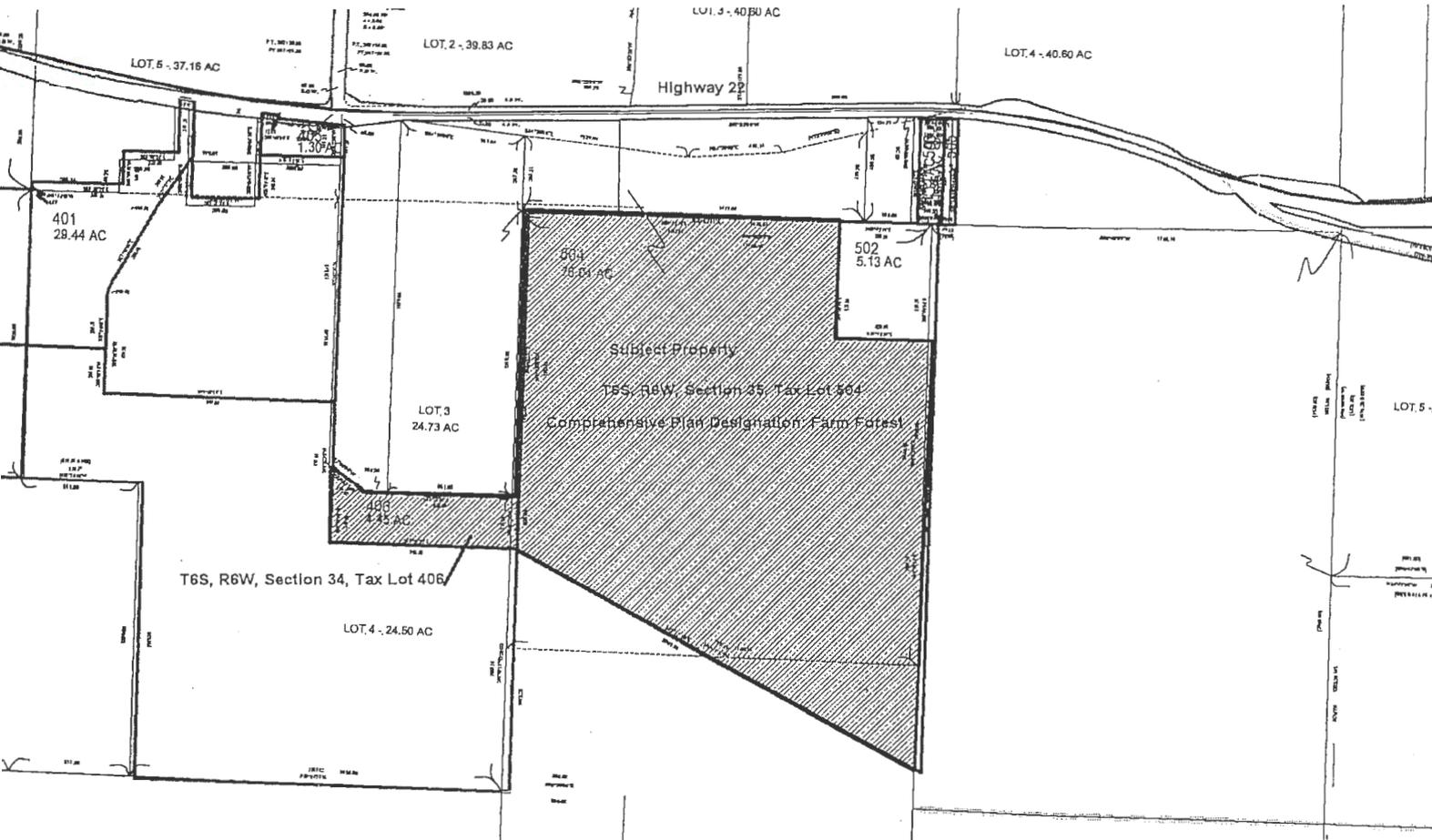
32
33 
34 _____
35 Jennifer Wheeler, Commissioner

36 Approved as to form:

37
38 _____
39 David Doyle
40 County Counsel

41
42 First Reading: _____
43 Second Reading: _____
44 Recording Secretary: _____

- Roads
 - GRAVEL
 - STATEHWY
 - PAVED
- TaxMap
 - 32
 - 33
 - 34
 - 8
- TaxMap Sub Line
- TaxMapAr
- Updates



This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

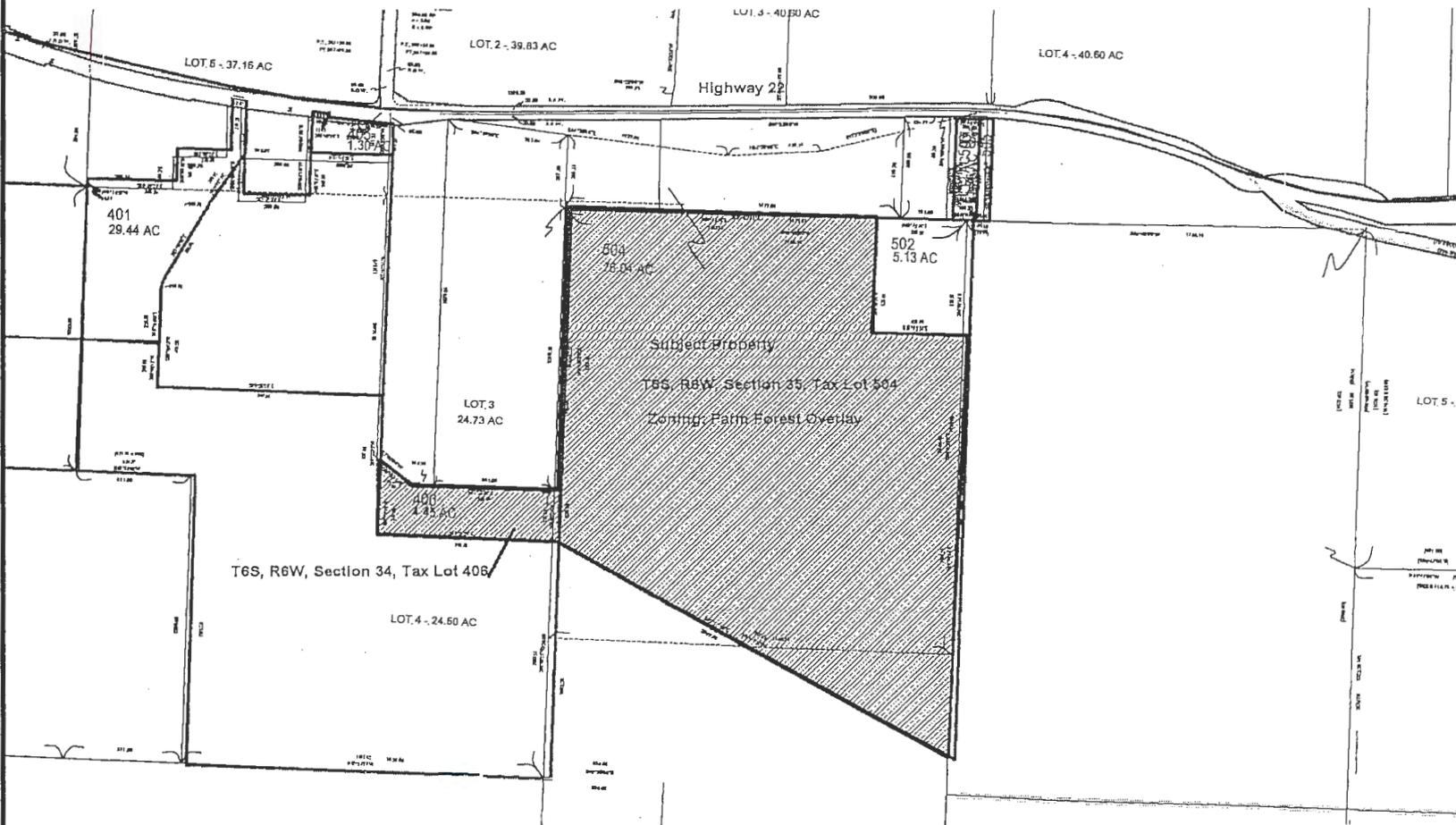
1 in. = 760 ft.



8/20/2012

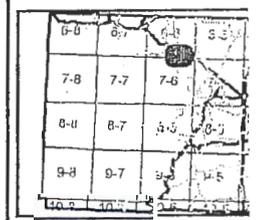


- Roads
 - GRAVEL
 - STATEHWY
 - PAVED
- TaxMap
 - 32
 - 33
 - 34
 - 8
- TaxMap Sub Line
- TaxMapAr
- Updates



T6S, R6W, Section 34, Tax Lot 406

Subject Property
T6S, R6W, Section 35, Tax Lot 504
Zoning: Farm Forest Overlay



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1 in. = 760 ft.

8/20/2012

EXHIBIT D

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

R E C E I V E D
JUL 18 2012

John and Kellie Baker,
Applicants

)
)

Plan Amendment 12-01
Zone Change 12-01 POLK COUNTY
COMMUNITY DEVELOPMENT

SUMMARY OF PROCEEDINGS

This matter arose on the application of John and Kellie Baker for an amendment to the Polk County Comprehensive Plan (PCCP) to change the designation of an 80.5-acre parcel from Forest to Farm Forest; and, an amendment to the Polk County Zoning Map to change the zoning of the subject property from Timber Conservation (TC) to Farm Forest Overlay (FFO). The subject property is legally described as Assessment Map T6S, R6W, section 35, tax lot 504; and, T6S, R6W, section 34, tax lot 406. It is located one property south of 17950 Highway 22, Sheridan, Oregon, and is within Polk County. The applicable review and decision criteria are Polk County Zoning Ordinance (PCZO) 111.140, 111.275 and 115.050.

The FFO zone permits the same uses as the Farm Forest (FF) Zone. As stated in the application, the primary purpose of these applications is to allow the property owner the option to establish a winery on the subject property at some point in the future.

The applications were submitted on April 16, 2012. The applications were deemed complete when the applicant submitted additional information on May 9, 2012. The Department of Land Conservation and Development (DLCD) notice was mailed on April 24, 2012. The Hearings Officer Hearing was scheduled for July 10, 2012 and the Board of Commissioners Hearing was scheduled for August 15, 2012 at 9:00 AM.

Table 1. Comprehensive Plan Map and Zoning Map Designations for the Subject Property and Contiguous Properties

Location	Comprehensive Plan Designation	Zoning Designation
Subject Property	Forest	Timber Conservation
Property North	Farm Forest	Farm Forest
Property South	Forest	Timber Conservation
Property East	Farm Forest	Farm Forest
Property West	Forest and Farm Forest	Timber Conservation and Farm Forest

The subject property was lawfully created pursuant to Polk County Subdivision and Partition Ordinance Section 91.950(1)(b) through a property line adjustment that was approved as a part of a series of property line adjustments identified as LLA 10-25, LLA 10-26, LLA 10-27, and LLA 10-28. Those property line adjustment approvals became effective January 18, 2011.

Based on a review of the Polk County Assessor records, the subject property currently is vacant. The subject property was approved for a dwelling under the forest template dwelling criteria in Polk County Planning authorization FORD 11-08, effective December 19, 2011.

Based on a review of the Polk County Significant Resource Areas Map, the subject property is located in the Deer and Elk Winter Range. Based on a review of the National Wetland Inventory map,

Sheridan quadrangle, an unnamed tributary to Salt Creek crosses the southern portion of the subject property, and is identified as a significant riparian area. 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 the Department of State Lands (DSL) and other appropriate state and federal agencies. DSL may be contacted at (503) 378-3805. 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 Section 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 the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel numbers 41053C0075F, dated December 19, 2006, the subject property is located outside of the 100-year floodplain.

Table 2: Soil characteristics of the subject property as identified in the Natural Resources Conservation Service (NRCS) Soil Survey of Polk County, Oregon utilizing the Polk County Geographic Information System (GIS)¹

Soil Type	Soil Name	Soil Class	High Value	Forest Productivity	Acres
60C	Rickreall Silty Clay Loam	VIE	No	0	10.99
36D	Jory Silty Clay Loam	IIIE	Yes	172	9.05
36E	Jory Silty Clay Loam	IVE	Yes	172	12.88
68D	Suver Silty Clay Loam	IVE	No	0	21.83
27C	Dupee silt loam	IIIE	No	0	18.26
37D	Jory Silty Clay Loam	VIE	No	172	3.37
27D	Dupee Silt Loam	IVE	No	0	4.15
TOTAL:					80.53

Based on Polk County's soil report for the subject property, the subject property contains approximately 27.2% high value soils. Approximately 82.2% of the soils on the property are Class I-IV. Approximately 31.4% of the subject property contains soils that are considered productive forestry soils. Those soils are capable of annually producing approximately 172 cubic feet of wood fiber per acre.

Notice of the July 10, 2012 public hearing before the Polk County Hearings Officer and the August 15, 2012 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 June 13, 2012. Notice was printed in the Dallas, Oregon, *Itemizer-Observer* newspaper on June 20, 2012. Notice was posted on the subject property on or prior to June 20, 2012.

The subject property has access to Highway 22 by way of an easement. Highway 22 is identified as a principal arterial in the *Polk County Transportation Systems Plan*, Figure 3. It is located in the Perrydale School District 21, and is served by the Southwest Polk RFPD.

¹ Disclaimer: Information is based on NRCS soil information & Polk County Tax Assessment data. This information is provided for land use planning purposes only. Polk County is not responsible for map errors, omissions, misuse, or misinterpretation. Percent and total calculations are based on staff measurements using the Polk County GIS.

Written comments prior to the public hearing from the Oregon Department of Transportation were included in the staff report as Attachment "D". Written comments also were received prior to the public hearing from John Engeliem opposing the application, and were included as part of Attachment "D" in the staff report.

REVIEW AND DECISION CRITERIA

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 of Commissioners conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. The applicant's findings are included as Attachment "E" of the staff report and are a part of the record.

PUBLIC HEARING

A duly advertised public hearing was held on the evening of July 10, 2012, in the Polk County Courthouse. In attendance were the applicants, their representative, staff, and others. There were no objections as to notice, jurisdiction, or conflict of interest. The Hearings Officer identified the request and the applicable review and decision criteria. Staff delivered a brief summary of its report, recommending approval.

Peter Idema, a recognized land use consultant, presented the case for applicants. He said they were in agreement with the staff report and recommendation. He said only about 20 acres of the subject property would be used as a vineyard, the remainder would be devoted to raising timber. The applicants eventually hope to establish a winery, and already have a residential permit.

John Engeliem, a neighbor, said he initially opposed the application, but based on more information he withdraws his opposition. He expressed some concern over possible traffic problems, and possible liability for drifting spray damages.

Staff remarked that the Oregon Department of Transportation already has stated that applicants may well need an amended approach road permit, a process that involves a public hearing.

In a closing statement, Idema promised that applicants would cooperate with neighbors in dealing with potential spray problems. Applicant added that the 20 acres to be planted with grapes would be in the interior of the property, not adjacent to the property boundary.

There were no requests for a continuance, or for the record to be left open. Staff explained the applicable procedure involving the final local decision by the Board of Commissioners. There being no further business, the Hearings Officer declared the record closed and adjourned the meeting. Robert W. Oliver, Polk County Hearings Officer, conducted the hearing. He was authorized by the Board to make a recommendation to the Board on the application.

FINDINGS

(Comprehensive Plan Map Amendment)

Amendments to the PCCP 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)]**

The PCCP states that designated "Forest Lands" are generally large holdings and few urban uses.

The predominate use is timber production.² The subject property was originally part of a larger tract of land owned by the Weyerhaeuser Real Estate Development Company.³ Polk County has determined this tract was actually comprised of five legal parcels. In 2010 the company applied for and received approval to perform a series of property line adjustments to reconfigure these parcels. This process resulted in the subject property being reduced in size by approximately one acre.

The company is in the process of selling these parcels, which range in size from 6 acres to 98 acres. The company is promoting these parcels as "land ideal for home-sites and vineyards."⁴

The applicant recently purchased what was originally identified as Parcel 4 in the staff report and received approval for a template dwelling from Polk County.⁵ This parcel contains eleven acres of 37-year old trees, sixty acres of 5-year old pre-merchantable trees, and seven acres of mixed aged trees.

The subject property contains approximately 20 acres of Jory soils, which are one of Oregon's premier soil types for wine grapes, particularly pinot noir. The applicant intends to plant a vineyard on the Jory soils, starting with five acres over the next year. Within a five-year time frame the applicant wants to develop a small winery to process grapes on-site into wine.

Applicant states that wineries in Polk County are becoming increasingly important to the economic vitality of Polk County and to the State of Oregon. According to the United States Department of Agriculture (USDA) National Agricultural Statistics Services (NASS), Polk County had 42 vineyards and 15 wineries in 1994.⁶ Those numbers increased to 71 vineyards and 32 wineries in 2009.

The increase in acreage planted into vineyards, number of wineries, and wine grape harvest levels in Polk County demonstrate that agricultural markets have changed in the last 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 property once a sufficient amount of grapes can be harvested and take advantage of the growing Oregon wine market. The FFO zone will also enable the applicant to manage the property for an array of other farm and forest uses.

Polk County recognizes that the PCCP is not a static document 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 responsive to change rather than restrict opportunities for change."*⁷

In summation, applicant says the proposed PCCP map amendment from Timber Conservation to Farm Forest is appropriate due to changes in conditions including:

- The previous owner (Weyerhaeuser Real Estate Development Company) logged a majority of the tract in 2005; it will be at least several decades before those logged areas will again be ready for harvesting;
- The land ownership of the subject parcel has changed from a one of the largest pulp and paper companies in the world to a family who has very different land management objectives;
- What was previously one large tract managed exclusively for timber production is now being sold as five separate parcels, ranging in size from 6 acres to 98 acres;

² Page 63 of the Polk County Comprehensive Plan.

³ This is a wholly owned subsidiary of the Weyerhaeuser Company.

⁴ www.landwatch.com.

⁵ FORD 11-80SR

⁶ Oregon's Vineyard and Winery reports produced by the USDA NASS are available online at <http://www.nassusda.gov/>

⁷ Polk County Comprehensive Plan (July 1, 2009), p.11.

- While timber production is still an important component to the economy of Polk County, there has been a substantial increase in the number of vineyards and wineries, which has helped diversify the local economy. Approximately 30 percent of the applicant's property contains Jory soils, which are one of the premier soils for pinot noir wine grapes;
- The F/F designation will allow the applicant the flexibility to eventually develop a winery while also maintaining the allowed uses provided for in the Timber Conservation zone.

Applicant concludes that the description for the Forest Land PCCP designation no longer applies to this property in that the Weyerhaeuser Company is breaking up this tract of land and selling the parcels separately and the owner of the subject parcel intends to change the predominate use of timber production to a mixture of farm and forest uses. The application complies with criterion "b" (PCZO 115.050(A)(1-2)).

Staff indicates 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 in this proposal that the property owner would like the flexibility to establish a winery on the subject property. The current zoning designation of the subject property is TC, which implements the Forest PCCP forest land designation. The TC zone allows farm use, which includes vineyards, but does not permit wineries. A winery is distinguished as a facility that produces wine on-site and customarily provides public tasting opportunities and limited events associated with the promotion of wine. The proposed Farm Forest PCCP designation and FFO Zoning designation would allow the applicant to apply for a winery on the property.

The applicant's findings indicate that there are a growing number of vineyards and wineries in Polk County. The applicant cites the Jory soils on the property as evidence that a vineyard and associated winery may be successful on the property. The proposed Farm Forest PCCP designation, and corresponding FFO zone would allow the applicant to establish the full array of farm and forest uses on the subject property allowed under ORS Chapter 215, which implements Statewide Planning Goals 3 and 4. Staff concluded that the proposed Farm Forest designation would be appropriate because it would allow flexibility for the property owner to manage the property for commercial forestry, as currently allowed in the TC zone, and/or for certain agriculturally related uses, such as wine making, for which markets have expanded over the past decades.

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;**
 - 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].

The applicant states that according to Section 4 of the PCCP, the Farm Forest Plan 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 Plan designation is to "*provide an opportunity for the continuance of large and small scale commercial farm and forestry operations.*"⁸ The PCCP further states that "*these lands are generally hilly, heavily vegetative, and have scattered residential development.*"⁹ The applicant's property and land management goals are consistent with this designation.

It is the specific intent of the Farm/Forest designation "*to ensure that land-use actions are consistent with definitions of agricultural and forest lands contained within the Polk County Comprehensive Plan.*"

A majority of adjacent lands east of the subject property are already designated Farm Forest. Parcel sizes vary from a few acres to more than 100 acres for an adjoining parcel. There are also a variety of land uses within the area. These include several woodlots and a variety of farm uses.

Lands to the south and west of the subject parcel are designated on the PCCP map as Forest Land and likely will continue to be managed primary as commercial timber tracts. The applicant's objective to have a combination of farm and forest uses will not interfere with the management of those lands. Vineyards are often located near timber lands because both thrive on Jory soils. The future winery would be located close to the proposed agricultural building, which is in the far northeast corner of the property.

The Farm Forest designation recognizes agriculture and forestry as both being appropriate

⁸ Comprehensive Plan, p. 68.

⁹ Comprehensive Plan, pp. 67-68.

resource activities. Therefore the amendment needs to be consistent with both the Agricultural Lands Policies contained in 2-B and Forest Land Policies contained in 2-C of the PCCP.

2-B Agriculture

This section 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.*¹⁰

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.*¹¹

Section 2-C: Forest

This section 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.*¹²

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.*¹³

Applicant contends that the Farm Forest Plan designation implements both the Agricultural Lands and Forest Lands PCCP goals and policies. The Farm Forest designation is appropriate, because the applicant's intentions are to manage their land with both farm and forest uses.

The soil characteristics of the subject property, as identified in the Natural Resources Conservation Service (NRCS) Soil Survey of Polk County, utilizing the Polk County Geographic Information System (GIS) are as follows:

¹⁰ Comprehensive Plan, p. 15.

¹¹ Comprehensive Plan, pp. 15-16.

¹² Comprehensive Plan, p. 17.

¹³ Comprehensive Plan, pp. 18-19.

Soil Type	Acres	Soil Class	Soil Series Name	Forest Productivity	Agricultural Uses ¹⁴
27C	18.2	IIIIE	Dupee silt loam	0	X-mas trees, orchards, small grain, hay, and pasture
27D	4.1	IVE			
36D	9.1	IIIIE	Jory silty clay	172 ¹⁵	X-mas trees, berries, nuts, sweet corn, wheat, and grapes
36E	12.9	IVE			
37D	3.4				
60C	11.3	VII	Rickreall silty clay	0	Pasture
68D	21.5	IVE	Suver silty clay	0	Pasture, cereal grains, grass seed and abandoned orchards

While a majority of the property will continue to be managed for forest uses, including growing trees for eventual harvesting, wildlife habitat, and watershed protection, the site contains soils that are suitable for various agricultural crops as well. Of particular interest to the applicant are the Jory soils, because these are considered the premier soil in Oregon for growing pinot noir grapes. The applicant's long term desire is to be able to process grapes on-site in a family-owned winery.

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 predominately Class I-IV soils in Western Oregon and I-IV in Eastern Oregon;*

(B) *Lands in other soil classes that that is suitable for farm uses as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing, and*

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

(b) *Lands in capability classes other than I-I/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 even though this land may not be cropped or grazed;*

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

As the table above demonstrates, the applicant's property has soils suitable for both farming and forest management. The Jory series are especially noted for pinot noir wine grapes.

The applicant intends to covert up to 20 acres of previously logged timberlands into a vineyard and, after sufficient grape production is realized, develop a winery. This combination of farm and forest uses is appropriate for the Farm Forest PCCP designation and consistent with state law. With respect to lands that are both agricultural 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.

¹⁴ This information was obtained from the NRCS Soil Survey.

¹⁵ Cubic feet/acre/year. Major tree species are Douglas fir and white oak.

Applicant concludes that the requested Farm Forest PCCP designation is consistent with the goals and policies of the PCCP. The application complies with criterion "C-1" (PCZO 115.050(A)(3)(a)).

Staff states that the applicant is proposing to change the PCCP Map designation of the subject property from Forest to Farm Forest. The Farm Forest Plan 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 potential as both agricultural land and forest land. The subject property is currently designated Forest on the PCCP map. As a result, the subject property has already been determined to comply with the PCCP Forest Lands goals and policies.

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. 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.

Based on the Polk County soil data for the subject property, Table 2, the subject property contains approximately 82% percent Class I-IV soils. Those soil characteristics confirm that the subject property is "agricultural land" as defined in OAR 660-033-0020(1).

The subject property satisfies the definition requirements of both agricultural land and forest land. Based on the information submitted by the applicant, staff agrees with the applicant that the Farm Forest PCCP designation is appropriate. The Farm Forest PCCP 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 FFO zone has been acknowledged by the state to be consistent with both Goals 3 and 4.

As stated in Section 4 of the PCCP, 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 cited by the applicant, 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.

The applicant is requesting the Farm Forest designation, which is an "agricultural/forest" definition as referenced in OAR 660-006-0015(2). As described by the applicant, the proposed Farm Forest Plan designation and corresponding FFO zoning would facilitate the establishment of a winery in the future on the subject property. Wineries are processing facilities that purchase grapes from commercial farming operations, and assist in the creation and continuance of large and small scale commercial farm operations. The applicant also indicates that the majority of the property would be managed for forestry purposes. The proposed FFO zone, which implements the Farm Forest PCCP land 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. This analysis assumes that the FFO zone would implement the Farm Forest designation. The applicant has concurrently applied for a zone change on the subject property from TC to FFO in application ZC 12-01. Staff recommended that a condition of approval require that if applications PA 12-01 and ZC 12-01 are approved, approval of each application shall be dependent upon approval of the other.

Based on the evidence submitted by the applicant and discussed above, and with this condition, the Hearings Officer finds 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)]**

Applicant states that a request to amend the PCCP from Forest to Farm Forest does not require a goal exception, because the applicant is also seeking a corresponding Zone Map amendment to FFO, which maintains the 80-acre minimum parcel size. The application must, however, still be found in compliance with the Statewide Planning Goals and related Oregon Administrative Rules. For a PCCP Map amendment, the Transportation Planning Rule (TPR) also needs to be considered under Goal 12-*Transportation* (OAR-660-012-0000-0070). Findings addressing the Statewide Goals and the TPR are contained in Exhibit "A" of the staff report and are part of the record.

OAR 660-006-0057 is also applicable for this application. It states the following:

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

This part of Polk County contains a significant amount of properties that already are in a Farm Forest Plan PCCP designation with the corresponding FFO zone. What was before a tract of land that strictly was used for commercial wood fiber production is now being sold off into smaller parcels to individuals who may have different land management goals. More specifically to this application, the applicant wants the full array of uses that the FFO zone provides so that they can manage the land for a variety of farm and forest uses.

As stated previously, the applicant is converting a portion of this property into a vineyard and feels it is imperative to be able to process grapes on-site, rather than having them transported to another processing facility. This is particularly preferable with pinot noir grapes because of their fragility. The general adage with pinot noir grapes and wines is to "stress the vine, baby the wine."

What this means is pinot noir grapes do best on less fertile soils but in the wine-making process it is critical that the grapes are handled very carefully. Transporting grapes in an uncontrolled environment and subjecting them to temperature swings and bruising can significantly reduce wine quality. The current designation permits a vineyard but does not allow on-site processing.

While an Agricultural designation would allow a winery, according to the PCCP those lands are typically "*characterized by large ownerships and few non-farm uses.*"¹⁶ In addition, the applicant intends to maintain a majority of the property as forest lands. The FFO zone would not restrict the types of uses allowed by current zoning. With an Agricultural designation there is no assurance that the applicant would retain over time the same flexibility to manage in the future, which is desirable on small parcels because it gives them the best opportunity to respond to changing conditions.¹⁷

Applicant argues in conclusion that all Oregon Statewide Planning Goals have been addressed. No goal exception is necessary in order to approve these applications. The applicant intends to manage the land in a mixture of agricultural and forest uses but neither Goals 3 or 4 can be applied alone to allow them the necessary flexibility. Therefore, the application complies with criterion "C-2" (PCZO 115.050(A)(3)(b)).

Staff believes the applicant is proposing a PCCP Map 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 4, 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 Goals 3, 4, or 14.

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 by the applicant, the subject property will be used for a mixture of farm and forest purposes. The subject property has historically been managed for timber production. While the majority of the property would be used for forestry purposes, the applicant would like to establish a vineyard and winery on the subject property. A winery is permitted under the uses permitted in the EFU zone, which implements Goal 3 and the Farm Forest and FFO zones, which implement Goals 3 and 4. The applicant has indicated that the FFO zone, which implements the Farm Forest PCCP designation and Goals 3 and 4, is preferable because it would allow the applicant the flexibility to manage the subject property for forestry, and for a potential winery in the future.

The subject property is accessed via an easement that connects to Highway 22. Highway 22 is principal arterial as 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. 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 a permanent forest product processing facility. Such uses could also produce high levels of traffic. ODOT manages access to Highway 22. ODOT provided comment indicating that they do not object to the

¹⁶ Page 63.

¹⁷ An example might be a portable saw mill. In addition, because the EFU zone regulates uses by statute, it is possible that in the legislature might adopt restrictions that are not now foreseeable.

proposed PCCP amendment and zone change. ODOT did indicate; however, that a proposed winery may require a new or amended approach road permit. Staff does not believe the uses permitted in the FFO zone would create a significantly higher or lower level of traffic from the uses that are permitted in the TC zone. Staff does 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. Staff recommended that the applicant contact ODOT to learn more about the access permitting process.

The applicant's proposal would apply the FFO zone in order to implement the Forest PCCP designation. The subject property is located in the Deer and Elk Winter Range, which is designated as a significant, Goal 5 resource on the Polk County Significant Resources Areas Map. PCZO 182.050(A) lists specific development standards in the Deer and Elk Winter Range; however, that section exempts the Farm Forest Zone from those standards. PCZO 182.050(A) reads as follows:

- (A) Deer and Elk Winter Range - To minimize impacts to deer and elk populations, the following standards apply (Note: Properties within the Rural Community Centers and areas zoned AR-5 and F/F are exempted from these requirements):
 - (1) Dwelling units are limited to a maximum of 1 unit per 40 acres;
 - (2) Dwelling units, roads, utility corridors and other development shall be sited on the least productive habitat land and away from sensitive slopes and soils;
 - (3) Development shall be clustered and located as close as possible to existing development and services, with only essential roads provided;
 - (4) Nonessential roads shall be closed and off-road vehicle use curtailed during the winter and spring.

The standards above place limitations on structural development on the subject property, which includes limitations on the number and locations of dwellings that are placed in the Deer and Elk Winter Range. The applicant applied for and was approved for a dwelling on the subject property by Polk County Planning Authorization FORD 11-08, effective December 19, 2011. That application included review and approval of a management plan that addressed the requirements of PCZO 182, including 182.050(A). Ongoing compliance with the management plan is required as a condition of approval to FORD 11-08. The proposed dwelling location was reviewed for compliance with PCZO 182.050(A)(1) through (3), and the requirements of PCZO 182.050(A)(4) were included as a condition of approval. The applicant has; therefore, demonstrated compliance with the applicable requirements of the PCZO that implement Polk County's program to comply with Goal 5. The PCZO only allows one primary dwelling on the subject property. Although the applicant has already been approved for a dwelling, and the requirements of PCZO Chapter 182 were applied to that application, staff recommended that approval of the proposed PCCP Map amendment and zone change include a condition that the subject property would continue to be subject to the requirements of PCZO Chapter 182 that apply to the portion of the property that is located in the Deer and Elk Winter Range. The applicant may be able to demonstrate how the proposed applications would comply with Goal 5 without this condition; however, such findings were not submitted in the application. The above mentioned condition would maintain the current Goal 5 protections for the subject property.

The Hearings Officer finds that the applicant has addressed all applicable Oregon Statewide Planning Goals. No goal exception is necessary in order to approve these applications. 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 zone change 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 of Commissioners 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 FFO 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.”*¹⁸ This designation would also allow the applicant to seek approval from Polk County for a winery pursuant to ORS 215.452, *et seq.* The applicant views a small-volume winery as an important component to a future vineyard operation at this location.

The applicant demonstrated above that the proposed zone change is consistent with the applicable purposes and policies for both the Agricultural Land and Forest PCCP designations.

Staff concluded that, as described in Section 4 of the PCCP, the Farm Forest Plan 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.

¹⁸ PCZO 138.010.

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 management of the subject property for a vineyard, forestry purposes, and potentially for a future winery, all uses permitted in the FFO zone, 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.

**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.**

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 FFO zone is contained in PCZO chapter 138. The stated purpose of the Farm Forest 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."*¹⁹

While a majority of the property will continue to be managed as forest land, up to 20 acres will be planted into a vineyard and in a few years the applicant intends to have a small family-owned winery to process grapes on-site. The Farm Forest Zone was adopted by Polk County to accommodate property owners who want to manage their land in both farm and forest types of uses.

Staff says 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. Based on the information submitted in the application, the subject property would be managed for vineyard use and forestry. The applicant would also like the opportunity to apply for a winery at some point in the future. The subject property contains approximately 80.5 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. Future development of the subject property would be restricted to the uses permitted in the FFO zone. The applicant has proposed a future use of the property that is either outright permitted in the FFO zone, or could be permitted through an administrative review process. If the applicant seeks to establish a winery in the future, the applicant would need to submit an

¹⁹ PCZO 138.010.

application and address all applicable criteria for the winery listed in PCZO Chapter 138.

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 says the adjacent area to the east, north and partially west is zoned Farm Forest and is comprised of a mixture of farming and forestry activities. Lands further to the north, across State Highway 22, properties are zoned EFU and consist of small and moderately-sized parcels including Chateau Bianca vineyard and winery, located at 17485 Hwy 22. Lands to the south and west are mostly zoned TC and currently managed for growing wood fiber.

The types of activities associated with growing grapes is compatible with forest land management activities. During start up to establish a healthy vineyard, the applicant is planning on applying and limiting chemical use to only fungicides. Whenever possible this will be in the liquid form, spraying grapes in close proximity and directly onto the grapevine canopy using a small vineyard tractor, so that there is virtually no over-spray.

Applicant contends that, in general, Oregon's winemakers are stewards of the land with a collective passion for growing fruit and making wine in a sustainable manner. An impressive percentage of Oregon's vineyard acreage is certified as sustainable, organic or biodynamic. Even among the many Oregon vineyards that are not officially certified, sustainability is both a priority and a lifestyle. And the benefits are two-fold; the practices are gentle on the earth and many winemakers believe they result in brighter, more flavorful wine that better reflects the characteristics of the land from which they are grown. The applicant shares this view and will act accordingly.

There are several organizations associated with Oregon's wine industry that assist grape growers with sustainability practices and certification and include: LIVE, Inc.; Vinea, The Winegrower's Sustainable Trust; Oregon Tilth Certified Organic; and Demeter Certified Biodynamic. The applicant intends on following these same footsteps.

The applicant qualified for a dwelling right permitted under the template test provisions. The house site is near the center of the property. The applicant will maintain fire buffers in accordance with Polk County zoning provisions. The winery would be sited in the far northeast corner of the property, near where an agricultural building will be constructed.

The typical activities associated with a winery are compatible with other land uses, including residential, in that most of the wine-making occurs inside a building and generates little noise or smells that would be detectable from other properties. The typical activities will be similar to what occurs during other farming or forest activities. Traffic from a small-scale winery would also be minor, consisting mostly of an occasional delivery vehicle. Even wineries open to the public for tasting and purchasing of wine, generally generate little traffic. The applicant has not decided whether they will offer wine-tasting and retail purchasing at this location. Those decisions will be made at the time the applicant is ready to apply for the winery,

The proposed designation will not adversely impact uses on adjacent lands, because the uses proposed by the applicant are consistent and compatible with those other types of farm, forest, and residential uses.

Staff states that the applicant is proposing a zone change of the subject property from TC to FFO. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. The uses allowed in the FFO zone are the same as the uses allowed in the FF zone. Based on a review of the Polk County Zoning Map, neighboring properties are zoned either TC or FF. Based on a review of the 2008 Polk County aerial photograph, contiguous properties are primarily used for forestry purposes. Contiguous properties to the north contain dwellings.

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, a commercial activity in conjunction with farm use, and a winery. The applicant has indicated an intention to establish a winery at some point in the future 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 either FF or TC. Consequently, those uses that would be added to the permitted uses are already allowed on the neighboring properties that are zoned FF. Contiguous properties to the north, west, and east are zoned FF. It is commonly accepted that properties that have the same permitted uses are generally compatible with one another.

The uses that would be allowed under the FFO zone, that are not permitted in the TC zone, include certain conditional uses which may have offsite impacts. These uses include a commercial activity in conjunction with farm use, dog kennel, or a very large winery. The applicant has not indicated that they would establish any of those uses, but it would remain a possibility. Those conditional uses would require an application with Polk County, and the applicant would need to demonstrate how their specific proposal would comply with all conditional use standards, including a demonstration that “[t]he use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands” [PCZO 138.100(A)]. That analysis and opportunity for public involvement through the conditional use permitting process would ensure that conditional 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. Neighboring properties are either zoned TC or FF, so the uses that accommodate commercial forestry in the FFO zone would be the same as and; therefore, consistent with neighboring properties.

In consideration of the above factors, the uses permitted in the FFO zone would not significantly adversely affect allowed uses on adjacent lands. Based on the information provided by the applicant and the findings above, the Hearings Officer finds 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 says the proposed uses will not create a greater demand on any public facilities, services, or the transportation network. Domestic water usage will be strictly from an on-site well.

The dwelling structure on the property will be serviced by the Southwest Rural Fire Protection District. Funding for district services are collected through tax assessments.

The internal driveway and culverts are designed to a 50,000 pound capacity. A hammerhead turnaround was designed to be serviceable for large vehicles, including fire trucks. Polk County will require the owner to maintain primary and secondary fuel breaks around the dwelling to reduce the risk of wildfire.

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

An existing private driveway provides access to Highway 22 by an easement that crosses “Tract 5” as recorded in Polk County Clerk Document 2011-008224. The ODOT permit number for this access is #3A35385. The Oregon Department sent a letter dated January 6, 2012 to the applicant indicating the existing access was in compliance and no further improvements were required. The easement was recorded in Polk County Clerk Document 2011-008343 and grants a utility and roadway easement 60 to 105 feet wide, which includes a Maintenance Agreement.

Staff believes 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 a water intensive uses that are out of scale with the land and water resources available on the subject property.

The subject property is accessed via an easement that connects to Highway 22. 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. 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. ODOT provided comment to these applications and indicated that they did not have an objection to the proposed applications. ODOT indicated that the current access to the subject property was recently reviewed in response to the applicant's earlier request for dwelling on the subject property. ODOT found at that time that a new or amended approach road permit was not necessary. In their comment, ODOT indicates that if the applicant establishes a winery on the subject property that a new or amended approach road permit would be required.

Staff did not believe that a change from TC to FFO would result in a significant change to the amount of traffic that would be attracted to the subject property. As a result, staff does not believe that the proposed change would create a significant impact on traffic use on Highway 22, and would not result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. The Southwest Polk Rural Fire Protection District and the Polk County Sheriff Department provide emergency services at the subject property.

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, and the Hearings Officer agrees. Approval of this 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 Hearings Officer finds that 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)]**

A zone map amendment to FFO is consistent with the land use density and pattern of development in this area, which includes parcels of various sizes and land uses that include other farms, a winery and vineyard, some forested and partially forested parcels, and scattered rural residence, including several adjacent to the applicant's. Most parcels east of the applicant's have the FFO Zone designation. While the TC Zone was appropriate when part of a large tract owned by a timber company, now that the subject parcel is no longer part of this tract and the owner has

different land management goals the proposed change is appropriate.

Staff concluded that, as discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used primarily for forestry purposes. The FFO zone permits an array of uses that support agricultural and forestry activities. The FFO zone allows both the uses permitted in the current TC zone and the EFU zone. The FFO zone permits the same uses as the FF zone. Neighboring properties are zoned TC and FF, 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 TC zone, staff concluded that 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 TC zone, and more than the 40-acre minimum parcel size in the FF zone. The proposed zoning would not change the current potential parcel density of 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 Polk County 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.

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

Exhibit "A" set out below demonstrates, applicant maintains, how this application complies with Oregon Revised Statutes, all applicable Statewide Planning Goals, and associated Oregon Administrative Rules, including the Transportation Planning Rule. No goal exception is required because the FFO maintains the 80-acre minimum parcel size standard. Applicant contends the application complies with criterion "g" (PCZO 111.275(G)).

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.

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.²⁰ The Polk County Hearing Officer will conduct the initial hearing.²¹ The Board of County Commissioners will conduct its own hearing *de novo* prior to a final decision being rendered.²² 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.

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

²⁰ PCZO 115.03(C).

²¹ PCZO 115.030(B).

²² PCZO 115.030(C).

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 and implementing ordinances have been determined to be in compliance with the Statewide Planning Goals. The Hearings Officer finds that this goal is met.

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

Applicant claims that 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 land can also include lands suitable for specialized crops. Grapes are a good example. Vineyards are often planted on less fertile hillsides, because they are more stressed and, therefore, able to produce more fruit and less vine growth. In these areas the plants are also less susceptible to early frost. Jory soils are especially desired for pinot noir grapes, because they have good drainage, while a high clay content retains moisture. The soils contain large amounts of iron (hence the reddish color) and are volcanic in origin, which contribute to certain taste characteristics.²³

The applicant intends to eventually convert approximately 20 acres into a vineyard and maintain the remainder as forest land. When there is sufficient grape production the applicant intends to process the grapes into wine. This represents a long-term commitment by the applicant to a mixed farm and forest use. Therefore, changing the PCCP Map on the property into a Farm Forest designation and rezoning it to FFO is consistent with this goal. This goal is met.

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

Applicant says, as stated previously, the parcel contains soils that are suitable for both farm or forest uses. Most noteworthy are the Jory soils, which are very productive for growing Douglas fir trees, which is the predominate commercial tree species in western Oregon. While the applicant intends to convert some of their land into a vineyard, a majority of the property will continue to be conserved for forest uses, including timber production, wildlife habitat, and watershed protection. 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 says the Polk County Significant Resources Area (SRA) map indicates the entire subject property is located within a Goal 5 deer and elk winter range. The surrounding properties to the south and west are also located within this Significant Resource Area, while properties to the north are partially within the boundaries.

PCZO Chapter 182 is the primary set of regulations that implements Goal 5. This chapter identifies specific "conflicting uses". Any proposed conflicting uses require Polk County to coordinate with the applicable state and federal agencies.²⁴ The proposed PCCP and Zone Map amendments do not require an Economic, Social, Environmental, and Energy (ESEE) analysis.²⁵

While PCZO 182(050) contains a note that exempts application of the SRA map and implementing code criteria contained in PCZO Chapter 182 for properties within the FFO Zone, the applicant will not object to future development being subject to PCZO Chapter 182 to ensure compliance with Goal 5.²⁶

The applicant submitted a Wildlife Management Plan in conjunction with the template dwelling application approved in 2011 by Polk County. The dwelling on a 80.5 acre parcel was

²³ There have even been efforts to make "Jory" soil the official state soil.

²⁴ See also OAR 660-23-000 et seq.

²⁵ This process is described in OAR 660, division 23.

²⁶ PCZO 182.080.

determined to exceed the minimum density of one dwelling per 40 acres in a SRA. The decision became effective on December 19, 2011. The Plan proposed specific mitigation steps to reduce conflicts associated with logging activities. These include restrictions on logging activities during spring migration of elk to lower elevations and prior to logging any nesting areas would be examined to assure that no threatened or endangered species are present. While farming activities are not restricted in either the TC or FFO zones, the applicant is willing to work with the Oregon Department of Fish and Wildlife (ODFW) to minimize future conflicts.

None of the property is designated as open space, cultural, or historic by the PCCP. The proposed map amendments are not in conflict with Goal 5. The Hearings Officer finds that 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.

Vineyards, as an agricultural activity, are regulated primarily by the Oregon Department of Agriculture²⁷. The applicant will follow best management practices in terms of applying chemicals, protecting riparian corridors, and preserving air and water quality. During start up of the vineyard the applicant will limit chemical use to only fungicide, spraying directly onto the grape canopy using a small tractor so that there is no over spray. The applicant intends to work with organizations associated with Oregon's wine industry that will assist with sustainability practices. Like many winemakers associated with growing grapes and making wine, the applicant has a passion for growing fruit and making wine in a sustainable manner. Not only is this good for the earth, it also makes for a brighter, more flavorful wine that better reflects the characteristics of the land from which they are grown. The Hearings Officer finds that this goal is met.

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

Polk County does not have an adopted landslide hazard map. However, there are no steep slopes and there is a low risk for debris or land slides. The property was replanted after trees were harvested several years ago and the vegetative ground cover will help reduce the risk of soil erosion. When the vineyard is planted, grapes will be laid out along contours to capture moisture and reduce soil erosion.

Based on a review of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) the property is outside of the identified 100-year floodplain.²⁸ The property is not located within a federally designated floodplain.

The applicant will reduce the risk of fire by doing a series of mitigation measures required by Polk County as part of its approval for the template dwelling. These are specified under condition 6 (a-e) in the final decision for the template test and are also listed in PCZO 177.070. The property is located in the S.W. Polk Rural Fire Protection District. The agency submitted its recommendations that are listed in condition 6. The Hearings Officer finds that 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.

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 diversity and improve the economy of the state.

Currently, Oregon has over 17,400 acres planted in various types of wine grapes and more than 1.5 million cases of wine are produced each year, making wine a \$200 million industry. In the early 1980s, approximately 30 wineries existed in Oregon. By the year 2000, more than 200

²⁷ 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.

²⁸ Panel no. 41053C00075F, dated December 19, 2006.

wineries were in operation, and by 2009 there were nearly 400 wineries and 800 vineyards in Oregon. 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 and has led the way in diversification of Oregon's agricultural economy.²⁹ The Hearings Officer finds this goal is met.

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

The applicant's property qualified for a template dwelling under PCZO Chapter 177. This is an important aspect of their business plan, because they intend to do much of the day to day work themselves along with their children as a family-run business. No additional dwellings are being requested. The Hearings Officer finds that this goal is met.

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.

Domestic water will be obtained from a well to be drilled on the property. The Polk County Sanitarian has approved the property for an on-site standard system. Access to the subject property is from State Highway 22 and is under permit from the Oregon Department of Transportation. 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 nor will they seek 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 the Transportation Planning Rule (TPR), the State Transportation Plan, and the Polk County Transportation System Plan (TSP. The State and Polk County transportation plans have been determined to be in compliance with the TPR (OAR 660-012-0060).

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.³⁰

This section of Highway 22 is a designated Major Freight Corridor.³¹ It is a primary route between the coast to east of the Cascade Mountains.

The plan and zone map amendments and proposed uses will not result in any more traffic that what is currently generated by the management of the property for timber except for additional traffic that one dwelling will generate. Occasionally the applicant might seek assistance with some activities, such tree thinning, herbicide spraying, and pruning, but the applicant intends this to be largely a family-run business. The Hearings Officer finds this goal is met.

GOAL 13- Energy Conservation: To conserve energy.

There has been considerable research in recent years on ways in which forest management and farm management practices can reduce energy consumption. The applicant will utilize such "best management types" where practicable. By residing on the property, the applicant will be able to reduce the amount of driving they would otherwise do to commute to and from their property. The Hearings Officer finds this goal is met.

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

²⁹ 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.

³⁰ OAR 660-012-0060(1).

³¹ This section of highway is called the Willamina-Salem Highway and is State Highway 30 in the State's system.

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 within the designated Willamette River Greenway. Therefore, this goal does not apply.

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

Staff says 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 above, the applicant's proposal complies with the Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules.

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

- 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)]**

Applicant says this property is accessed from State Highway 22, which is managed under authority of the Oregon Department of Transportation (ODOT). As such, ODOT has the permitting authority for both ingress and egress. This section of Highway 22 is a designated Major Freight Corridor. It is a primary route between the coast to east of the Cascade Mountains.

The plan and zone map amendments and proposed uses will not result in any more traffic that what is currently generated by the management of the property for timber. The approved dwelling will generate a slight amount of traffic but that was previously reviewed by ODOT under the recently approved template dwelling.³² Occasionally the applicant might seek assistance with some activities, such tree thinning, herbicide/fungicide spraying, and pruning, but the applicant intends this to be largely a family-run business. If a winery is developed in the future, ODOT would have an opportunity to once again comment on the application. However, this winery would be small and would generate little additional traffic. The Hearings Officer finds that the applicant complies with criterion "h" (PCZO 111.275(H))

Staff says the subject property is accessed via an easement that connects to Highway 22. If the proposed PCCP and Zoning Map amendments 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. 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. ODOT provided comment to these applications and indicated that they did not have an objection to the proposed applications. ODOT indicated that the current access to the subject property was recently reviewed in response to the applicant's earlier request for dwelling on the subject property. ODOT found at that time that a

³² See FORD 11-08SR.

new or amended approach road permit was not necessary. In their comment, ODOT indicates that if the applicant establishes a winery on the subject property that a new or amended approach road permit would be required. Based on the above information, staff does not believe that a change from TC to FFO would result in a significant change to the amount of traffic that would be attracted to the subject property.

CONCLUSION; DEVELOPMENT STANDARDS

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 12-01 and ZC 12-01. However, future development on the subject property shall 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.

Staff and the Hearings Officer further RECOMMEND that if PA 12-01 and ZC 12-01 are approved, it shall be made clear that approval of each application is dependent upon approval of the other. Staff and the Hearings Officer also RECOMMEND that the subject property be subject to the standards for development in the Deer and Elk Winter Range, including PCZO 182.050(A) notwithstanding that the text of PCZO 182.050(A) exempts the FF zone from application of that standard.

Dallas, Oregon, July 18, 2012.



Robert W. Oliver

Polk County Hearings Officer

1
2
3
4
5 **BEFORE THE BOARD OF COMMISSIONERS**
6 **FOR THE COUNTY OF POLK, STATE OF OREGON**
7

8
9 In the matter of Plan Amendment PA 12-01 and)
10 Zone Change ZC 12-01 that would authorize a)
11 Comprehensive Plan Map amendment and Zoning)
12 Map Amendment on an approximately 80.5 acre)
13 property located at T6S, R6W, Section 35, Tax Lot)
14 504 and T6S, R6W, Section 34, Tax Lot 406)
15
16
17

18 **ORDINANCE NO. 12-06**
19
20

21 **WHEREAS**, the Board of Commissioners held a public hearing on August 15, 2012 with
22 due notice of such public hearing having been given, and provided an opportunity for public
23 comments and testimony; and
24

25 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
26 Amendment PA 12-01 and Zone Change ZC 12-01 from the Polk County Hearings Officer based
27 upon his public hearing and conclusions; and
28

29 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
30 Amendment PA 12-01 and Zone Change ZC 12-01 from Polk County Planning staff based upon
31 the findings and evidence in the record; and
32

33 **WHEREAS**, on August 15, 2012, the Board of Commissioners publicly deliberated and
34 unanimously passed a motion to approve Plan Amendment PA 12-01 and Zone Change ZC 12-
35 01; now therefore,
36

37 **THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**
38

39 Sec. 1. That Polk County adopts the findings for Plan Amendment PA 12-01 and Zone
40 Change ZC 12-01 located in the Hearings Officer's recommendation as shown on
41 Exhibit C.
42

43 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for the
44 approximately 80.5 acre property; depicted as Tract 4 on County Survey 15517
45 and identified on the Assessment Map as T6S, R6W, Section 35, Tax Lot 504 and
46 T6S, R6W, Section 34, Tax Lot 406; from Forest to Farm Forest as shown on
47 Exhibit A.
48

1 Sec. 3. That Polk County amends the Polk County Zoning Map for the approximately
2 80.5 acre property; depicted as Tract 4 on County Survey 15517 and identified on
3 the Assessment Map as T6S, R6W, Section 35, Tax Lot 504 and T6S, R6W,
4 Section 34, Tax Lot 406; from Timber Conservation (TC) to Farm Forest Overlay
5 (FFO) as shown on Exhibit B. As recommended by the Hearings Officer, the
6 subject property shall remain subject to the standards for development in the Deer
7 and Elk Winter Range listed in PCZO Chapter 182; including PCZO 182.050(A).
8

9 Sec. 4 Polk County amends the Polk County Zoning Ordinance text so that the effective
10 date of the Official Zoning Map listed under PCZO 111.090(A) is changed to
11 August 29, 2012.
12

13 Sec. 5. Applications Plan Amendment PA 12-01 and Zone Change ZC 12-01 were
14 evaluated concurrently, and approval of each application is dependent upon
15 approval of the other. Therefore; both applications must become effective in order
16 to implement this approval.
17

18 Sec. 6. An emergency is declared, and the provisions of this ordinance become effective
19 upon its adoption.
20

21 Dated this 29th day of August 2012 at Dallas, Oregon.
22

23 POLK COUNTY BOARD OF COMMISSIONERS

24 
25 _____
26 Mike Ainsworth, Chair
27

28 
29 _____
30 Craig Pope, Commissioner
31

32 
33 _____
34 Jennifer Wheeler, Commissioner
35

36 Approved as to form:
37

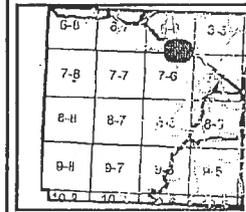
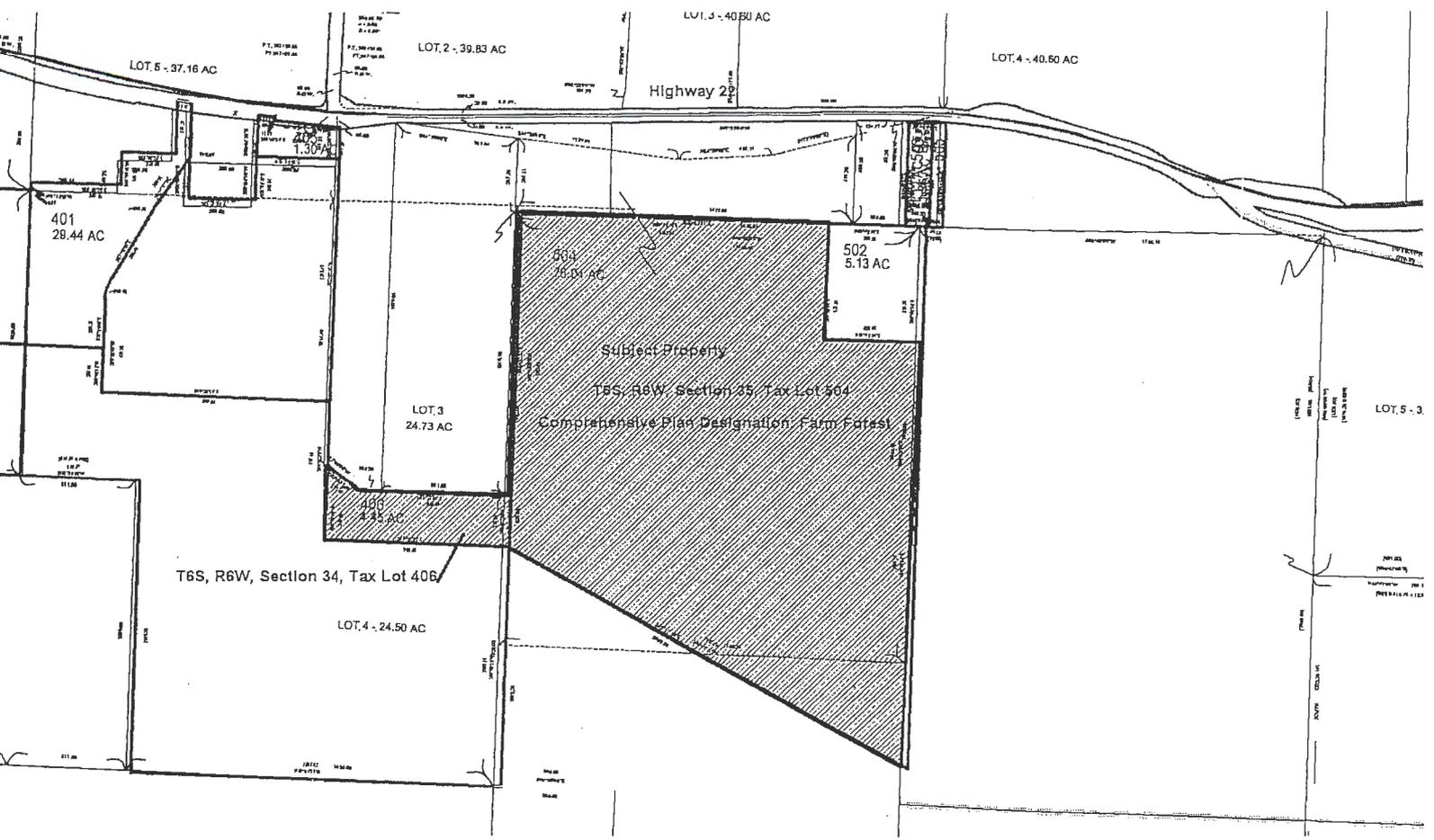
38 _____
39 David Doyle
40 County Counsel
41

42 First Reading: _____
43

44 Second Reading: _____

Recording Secretary: _____

- Roads
 - GRAVEL
 - STATEHWY
 - PAVED
- TaxMap
 - 32
 - 33
 - 34
 - 8
- TaxMap Sub Line
- TaxMapAr
- Updates



This map was produced using the Polk County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

1 in. = 760 ft

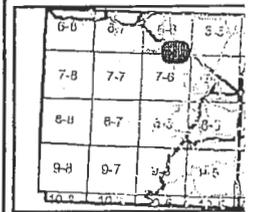
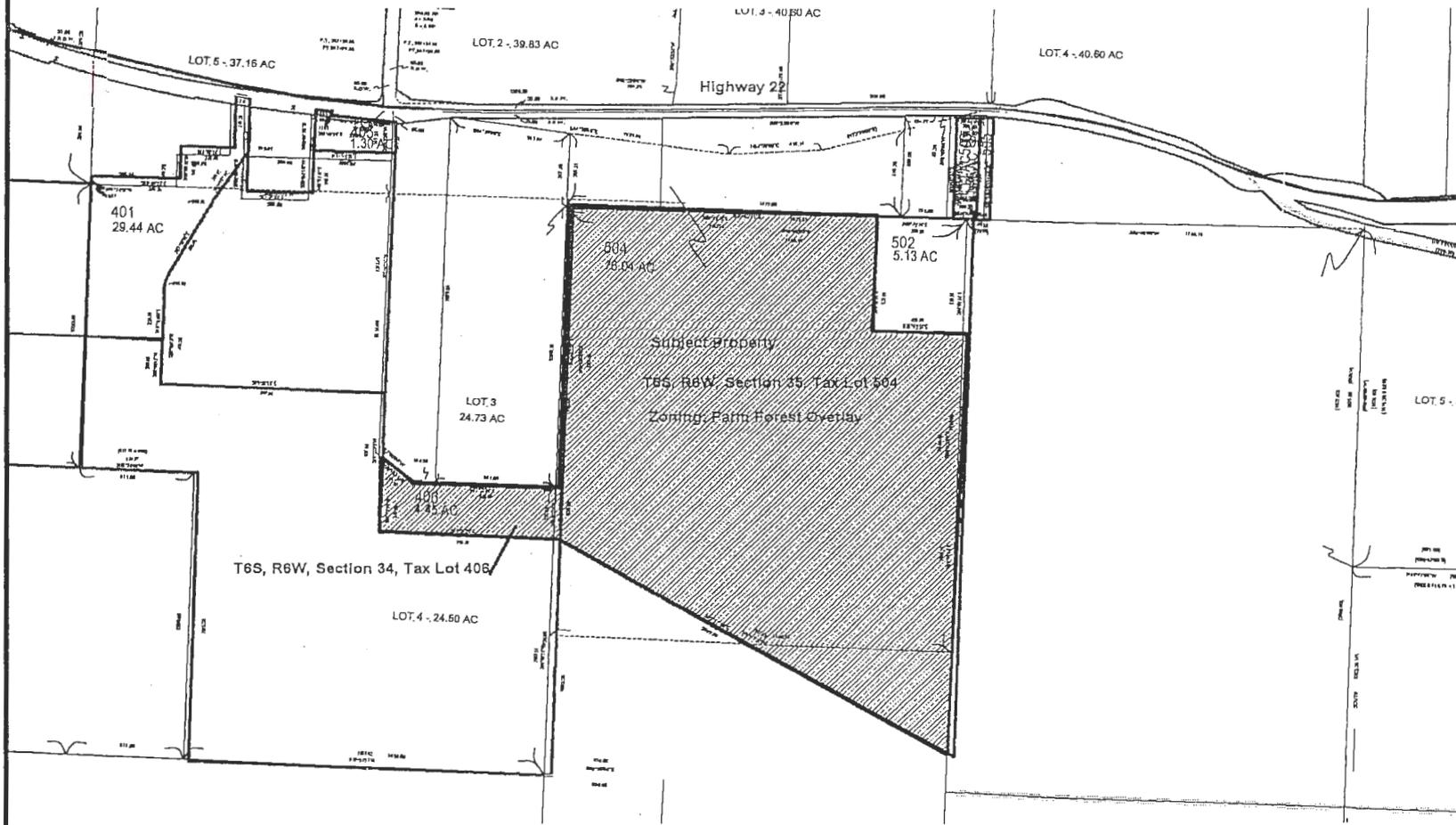


8/20/2012



Exhibit A

- Roads
- GRAVEL
 - STATEHWY
 - PAVED
- TaxMap
- 32
 - 33
 - 34
 - 8
- TaxMap Sub Line
- TaxMapAr
- Updates



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1in. = 760 ft.

8/20/2012

EXHIBIT D

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

R E C E I V E D
JUL 18 2012

John and Kellie Baker,)
Applicants)

Plan Amendment 12-01)
Zone Change 12-01) POLK COUNTY
COMMUNITY DEVELOPMENT

SUMMARY OF PROCEEDINGS

This matter arose on the application of John and Kellie Baker for an amendment to the Polk County Comprehensive Plan (PCCP) to change the designation of an 80.5-acre parcel from Forest to Farm Forest; and, an amendment to the Polk County Zoning Map to change the zoning of the subject property from Timber Conservation (TC) to Farm Forest Overlay (FFO). The subject property is legally described as Assessment Map T6S, R6W, section 35, tax lot 504; and, T6S, R6W, section 34, tax lot 406. It is located one property south of 17950 Highway 22, Sheridan, Oregon, and is within Polk County. The applicable review and decision criteria are Polk County Zoning Ordinance (PCZO) 111.140, 111.275 and 115.050.

The FFO zone permits the same uses as the Farm Forest (FF) Zone. As stated in the application, the primary purpose of these applications is to allow the property owner the option to establish a winery on the subject property at some point in the future.

The applications were submitted on April 16, 2012. The applications were deemed complete when the applicant submitted additional information on May 9, 2012. The Department of Land Conservation and Development (DLCD) notice was mailed on April 24, 2012. The Hearings Officer Hearing was scheduled for July 10, 2012 and the Board of Commissioners Hearing was scheduled for August 15, 2012 at 9:00 AM.

Table 1. Comprehensive Plan Map and Zoning Map Designations for the Subject Property and Contiguous Properties

Location	Comprehensive Plan Designation	Zoning Designation
Subject Property	Forest	Timber Conservation
Property North	Farm Forest	Farm Forest
Property South	Forest	Timber Conservation
Property East	Farm Forest	Farm Forest
Property West	Forest and Farm Forest	Timber Conservation and Farm Forest

The subject property was lawfully created pursuant to Polk County Subdivision and Partition Ordinance Section 91.950(1)(b) through a property line adjustment that was approved as a part of a series of property line adjustments identified as LLA 10-25, LLA 10-26, LLA 10-27, and LLA 10-28. Those property line adjustment approvals became effective January 18, 2011.

Based on a review of the Polk County Assessor records, the subject property currently is vacant. The subject property was approved for a dwelling under the forest template dwelling criteria in Polk County Planning authorization FORD 11-08, effective December 19, 2011.

Based on a review of the Polk County Significant Resource Areas Map, the subject property is located in the Deer and Elk Winter Range. Based on a review of the National Wetland Inventory map,

Sheridan quadrangle, an unnamed tributary to Salt Creek crosses the southern portion of the subject property, and is identified as a significant riparian area. 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 the Department of State Lands (DSL) and other appropriate state and federal agencies. DSL may be contacted at (503) 378-3805. 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 Section 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 the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel numbers 41053C0075F, dated December 19, 2006, the subject property is located outside of the 100-year floodplain.

Table 2: Soil characteristics of the subject property as identified in the Natural Resources Conservation Service (NRCS) Soil Survey of Polk County, Oregon utilizing the Polk County Geographic Information System (GIS)¹

Soil Type	Soil Name	Soil Class	High Value	Forest Productivity	Acres
60C	Rickreall Silty Clay Loam	VIE	No	0	10.99
36D	Jory Silty Clay Loam	IIIE	Yes	172	9.05
36E	Jory Silty Clay Loam	IVE	Yes	172	12.88
68D	Suver Silty Clay Loam	IVE	No	0	21.83
27C	Dupee silt loam	IIIE	No	0	18.26
37D	Jory Silty Clay Loam	VIE	No	172	3.37
27D	Dupee Silt Loam	IVE	No	0	4.15
				TOTAL:	80.53

Based on Polk County's soil report for the subject property, the subject property contains approximately 27.2% high value soils. Approximately 82.2% of the soils on the property are Class I-IV. Approximately 31.4% of the subject property contains soils that are considered productive forestry soils. Those soils are cable of annually producing approximately 172 cubic feet of wood fiber per acre.

Notice of the July 10, 2012 public hearing before the Polk County Hearings Officer and the August 15, 2012 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 June 13, 2012. Notice was printed in the Dallas, Oregon, *Itemizer-Observer* newspaper on June 20, 2012. Notice was posted on the subject property on or prior to June 20, 2012.

The subject property has access to Highway 22 by way of an easement. Highway 22 is identified as a principal arterial in the *Polk County Transportation Systems Plan*, Figure 3. It is located in the Perrydale School District 21, and is served by the Southwest Polk RFPD.

¹ Disclaimer: Information is based on NRCS soil information & Polk County Tax Assessment data. This information is provided for land use planning purposes only. Polk County is not responsible for map errors, omissions, misuse, or misinterpretation. Percent and total calculations are based on staff measurements using the Polk County GIS.

Written comments prior to the public hearing from the Oregon Department of Transportation were included in the staff report as Attachment "D". Written comments also were received prior to the public hearing from John Engeliem opposing the application, and were included as part of Attachment "D" in the staff report.

REVIEW AND DECISION CRITERIA

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 of Commissioners conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. The applicant's findings are included as Attachment "E" of the staff report and are a part of the record.

PUBLIC HEARING

A duly advertised public hearing was held on the evening of July 10, 2012, in the Polk County Courthouse. In attendance were the applicants, their representative, staff, and others. There were no objections as to notice, jurisdiction, or conflict of interest. The Hearings Officer identified the request and the applicable review and decision criteria. Staff delivered a brief summary of its report, recommending approval.

Peter Idema, a recognized land use consultant, presented the case for applicants. He said they were in agreement with the staff report and recommendation. He said only about 20 acres of the subject property would be used as a vineyard, the remainder would be devoted to raising timber. The applicants eventually hope to establish a winery, and already have a residential permit.

John Engeliem, a neighbor, said he initially opposed the application, but based on more information he withdraws his opposition. He expressed some concern over possible traffic problems, and possible liability for drifting spray damages.

Staff remarked that the Oregon Department of Transportation already has stated that applicants may well need an amended approach road permit, a process that involves a public hearing.

In a closing statement, Idema promised that applicants would cooperate with neighbors in dealing with potential spray problems. Applicant added that the 20 acres to be planted with grapes would be in the interior of the property, not adjacent to the property boundary.

There were no requests for a continuance, or for the record to be left open. Staff explained the applicable procedure involving the final local decision by the Board of Commissioners. There being no further business, the Hearings Officer declared the record closed and adjourned the meeting. Robert W. Oliver, Polk County Hearings Officer, conducted the hearing. He was authorized by the Board to make a recommendation to the Board on the application.

FINDINGS

(Comprehensive Plan Map Amendment)

Amendments to the PCCP 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)]**

The PCCP states that designated "Forest Lands" are generally large holdings and few urban uses.

The predominate use is timber production.² The subject property was originally part of a larger tract of land owned by the Weyerhaeuser Real Estate Development Company.³ Polk County has determined this tract was actually comprised of five legal parcels. In 2010 the company applied for and received approval to perform a series of property line adjustments to reconfigure these parcels. This process resulted in the subject property being reduced in size by approximately one acre.

The company is in the process of selling these parcels, which range in size from 6 acres to 98 acres. The company is promoting these parcels as "land ideal for home-sites and vineyards."⁴

The applicant recently purchased what was originally identified as Parcel 4 in the staff report and received approval for a template dwelling from Polk County.⁵ This parcel contains eleven acres of 37-year old trees, sixty acres of 5-year old pre-merchantable trees, and seven acres of mixed aged trees.

The subject property contains approximately 20 acres of Jory soils, which are one of Oregon's premier soil types for wine grapes, particularly pinot noir. The applicant intends to plant a vineyard on the Jory soils, starting with five acres over the next year. Within a five-year time frame the applicant wants to develop a small winery to process grapes on-site into wine.

Applicant states that wineries in Polk County are becoming increasingly important to the economic vitality of Polk County and to the State of Oregon. According to the United States Department of Agriculture (USDA) National Agricultural Statistics Services (NASS), Polk County had 42 vineyards and 15 wineries in 1994.⁶ Those numbers increased to 71 vineyards and 32 wineries in 2009.

The increase in acreage planted into vineyards, number of wineries, and wine grape harvest levels in Polk County demonstrate that agricultural markets have changed in the last 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 property once a sufficient amount of grapes can be harvested and take advantage of the growing Oregon wine market. The FFO zone will also enable the applicant to manage the property for an array of other farm and forest uses.

Polk County recognizes that the PCCP is not a static document 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 responsive to change rather than restrict opportunities for change."*⁷

In summation, applicant says the proposed PCCP map amendment from Timber Conservation to Farm Forest is appropriate due to changes in conditions including:

- The previous owner (Weyerhaeuser Real Estate Development Company) logged a majority of the tract in 2005; it will be at least several decades before those logged areas will again be ready for harvesting;
- The land ownership of the subject parcel has changed from a one of the largest pulp and paper companies in the world to a family who has very different land management objectives;
- What was previously one large tract managed exclusively for timber production is now being sold as five separate parcels, ranging in size from 6 acres to 98 acres;

² Page 63 of the Polk County Comprehensive Plan.

³ This is a wholly owned subsidiary of the Weyerhaeuser Company.

⁴ www.landwatch.com.

⁵ FORD 11-80SR

⁶ Oregon's Vineyard and Winery reports produced by the USDA NASS are available online at <http://www.nassusda.gov/>

⁷ Polk County Comprehensive Plan (July 1, 2009), p.11.

- While timber production is still an important component to the economy of Polk County, there has been a substantial increase in the number of vineyards and wineries, which has helped diversify the local economy. Approximately 30 percent of the applicant's property contains Jory soils, which are one of the premier soils for pinot noir wine grapes;
- The F/F designation will allow the applicant the flexibility to eventually develop a winery while also maintaining the allowed uses provided for in the Timber Conservation zone.

Applicant concludes that the description for the Forest Land PCCP designation no longer applies to this property in that the Weyerhaeuser Company is breaking up this tract of land and selling the parcels separately and the owner of the subject parcel intends to change the predominate use of timber production to a mixture of farm and forest uses. The application complies with criterion "b" (PCZO 115.050(A)(1-2)).

Staff indicates 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 in this proposal that the property owner would like the flexibility to establish a winery on the subject property. The current zoning designation of the subject property is TC, which implements the Forest PCCP forest land designation. The TC zone allows farm use, which includes vineyards, but does not permit wineries. A winery is distinguished as a facility that produces wine on-site and customarily provides public tasting opportunities and limited events associated with the promotion of wine. The proposed Farm Forest PCCP designation and FFO Zoning designation would allow the applicant to apply for a winery on the property.

The applicant's findings indicate that there are a growing number of vineyards and wineries in Polk County. The applicant cites the Jory soils on the property as evidence that a vineyard and associated winery may be successful on the property. The proposed Farm Forest PCCP designation, and corresponding FFO zone would allow the applicant to establish the full array of farm and forest uses on the subject property allowed under ORS Chapter 215, which implements Statewide Planning Goals 3 and 4. Staff concluded that the proposed Farm Forest designation would be appropriate because it would allow flexibility for the property owner to manage the property for commercial forestry, as currently allowed in the TC zone, and/or for certain agriculturally related uses, such as wine making, for which markets have expanded over the past decades.

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;**
 - 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].

The applicant states that according to Section 4 of the PCCP, the Farm Forest Plan 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 Plan designation is to "*provide an opportunity for the continuance of large and small scale commercial farm and forestry operations.*"⁸ The PCCP further states that "*these lands are generally hilly, heavily vegetative, and have scattered residential development.*"⁹ The applicant's property and land management goals are consistent with this designation.

It is the specific intent of the Farm/Forest designation "*to ensure that land-use actions are consistent with definitions of agricultural and forest lands contained within the Polk County Comprehensive Plan.*"

A majority of adjacent lands east of the subject property are already designated Farm Forest. Parcel sizes vary from a few acres to more than 100 acres for an adjoining parcel. There are also a variety of land uses within the area. These include several woodlots and a variety of farm uses.

Lands to the south and west of the subject parcel are designated on the PCCP map as Forest Land and likely will continue to be managed primarily as commercial timber tracts. The applicant's objective to have a combination of farm and forest uses will not interfere with the management of those lands. Vineyards are often located near timber lands because both thrive on Jory soils. The future winery would be located close to the proposed agricultural building, which is in the far northeast corner of the property.

The Farm Forest designation recognizes agriculture and forestry as both being appropriate

⁸ Comprehensive Plan, p. 68.

⁹ Comprehensive Plan, pp. 67-68.

resource activities. Therefore the amendment needs to be consistent with both the Agricultural Lands Policies contained in 2-B and Forest Land Policies contained in 2-C of the PCCP.

2-B Agriculture

This section 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.*¹⁰

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.*¹¹

Section 2-C: Forest

This section 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.*¹²

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.*¹³

Applicant contends that the Farm Forest Plan designation implements both the Agricultural Lands and Forest Lands PCCP goals and policies. The Farm Forest designation is appropriate, because the applicant's intentions are to manage their land with both farm and forest uses.

The soil characteristics of the subject property, as identified in the Natural Resources Conservation Service (NRCS) Soil Survey of Polk County, utilizing the Polk County Geographic Information System (GIS) are as follows:

¹⁰ Comprehensive Plan, p. 15.

¹¹ Comprehensive Plan, pp. 15-16.

¹² Comprehensive Plan, p. 17.

¹³ Comprehensive Plan, pp. 18-19.

Soil Type	Acres	Soil Class	Soil Series Name	Forest Productivity	Agricultural Uses ¹⁴
27C	18.2	IIIIE	Dupee silt loam	0	X-mas trees, orchards, small grain, hay, and pasture
27D	4.1	IVE			
36D	9.1	IIIIE	Jory silty clay	172 ¹⁵	X-mas trees, berries, nuts, sweet corn, wheat, and grapes
36E	12.9	IVE			
37D	3.4				
60C	11.3	VII	Rickreall silty clay	0	Pasture
68D	21.5	IVE	Suver silty clay	0	Pasture, cereal grains, grass seed and abandoned orchards

While a majority of the property will continue to be managed for forest uses, including growing trees for eventual harvesting, wildlife habitat, and watershed protection, the site contains soils that are suitable for various agricultural crops as well. Of particular interest to the applicant are the Jory soils, because these are considered the premier soil in Oregon for growing pinot noir grapes. The applicant's long term desire is to be able to process grapes on-site in a family-owned winery.

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 predominately Class I-IV soils in Western Oregon and I-IV in Eastern Oregon;*
- (B) *Lands in other soil classes that that is suitable for farm uses as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing, and*
- (C) *Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands;*
- (b) *Lands in capability classes other than I-I/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 even though this land may not be cropped or grazed;*
- (c) *"Agricultural Land" does not include land within acknowledged urban growth boundaries or within acknowledged exception areas for Goals 3 or 4.*

As the table above demonstrates, the applicant's property has soils suitable for both farming and forest management. The Jory series are especially noted for pinot noir wine grapes.

The applicant intends to covert up to 20 acres of previously logged timberlands into a vineyard and, after sufficient grape production is realized, develop a winery. This combination of farm and forest uses is appropriate for the Farm Forest PCCP designation and consistent with state law. With respect to lands that are both agricultural 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.

¹⁴ This information was obtained from the NRCS Soil Survey.

¹⁵ Cubic feet/acre/year. Major tree species are Douglas fir and white oak.

Applicant concludes that the requested Farm Forest PCCP designation is consistent with the goals and policies of the PCCP. The application complies with criterion "C-1" (PCZO 115.050(A)(3)(a)).

Staff states that the applicant is proposing to change the PCCP Map designation of the subject property from Forest to Farm Forest. The Farm Forest Plan 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 potential as both agricultural land and forest land. The subject property is currently designated Forest on the PCCP map. As a result, the subject property has already been determined to comply with the PCCP Forest Lands goals and policies.

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. 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.

Based on the Polk County soil data for the subject property, Table 2, the subject property contains approximately 82% percent Class I-IV soils. Those soil characteristics confirm that the subject property is "agricultural land" as defined in OAR 660-033-0020(1).

The subject property satisfies the definition requirements of both agricultural land and forest land. Based on the information submitted by the applicant, staff agrees with the applicant that the Farm Forest PCCP designation is appropriate. The Farm Forest PCCP 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 FFO zone has been acknowledged by the state to be consistent with both Goals 3 and 4.

As stated in Section 4 of the PCCP, 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 cited by the applicant, 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.

The applicant is requesting the Farm Forest designation, which is an "agricultural/forest" definition as referenced in OAR 660-006-0015(2). As described by the applicant, the proposed Farm Forest Plan designation and corresponding FFO zoning would facilitate the establishment of a winery in the future on the subject property. Wineries are processing facilities that purchase grapes from commercial farming operations, and assist in the creation and continuance of large and small scale commercial farm operations. The applicant also indicates that the majority of the property would be managed for forestry purposes. The proposed FFO zone, which implements the Farm Forest PCCP land 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. This analysis assumes that the FFO zone would implement the Farm Forest designation. The applicant has concurrently applied for a zone change on the subject property from TC to FFO in application ZC 12-01. Staff recommended that a condition of approval require that if applications PA 12-01 and ZC 12-01 are approved, approval of each application shall be dependent upon approval of the other.

Based on the evidence submitted by the applicant and discussed above, and with this condition, the Hearings Officer finds 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)]**

Applicant states that a request to amend the PCCP from Forest to Farm Forest does not require a goal exception, because the applicant is also seeking a corresponding Zone Map amendment to FFO, which maintains the 80-acre minimum parcel size. The application must, however, still be found in compliance with the Statewide Planning Goals and related Oregon Administrative Rules. For a PCCP Map amendment, the Transportation Planning Rule (TPR) also needs to be considered under Goal 12-*Transportation* (OAR-660-012-0000-0070). Findings addressing the Statewide Goals and the TPR are contained in Exhibit "A" of the staff report and are part of the record.

OAR 660-006-0057 is also applicable for this application. It states the following:

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

This part of Polk County contains a significant amount of properties that already are in a Farm Forest Plan PCCP designation with the corresponding FFO zone. What was before a tract of land that strictly was used for commercial wood fiber production is now being sold off into smaller parcels to individuals who may have different land management goals. More specifically to this application, the applicant wants the full array of uses that the FFO zone provides so that they can manage the land for a variety of farm and forest uses.

As stated previously, the applicant is converting a portion of this property into a vineyard and feels it is imperative to be able to process grapes on-site, rather than having them transported to another processing facility. This is particularly preferable with pinot noir grapes because of their fragility. The general adage with pinot noir grapes and wines is to "stress the vine, baby the wine."

What this means is pinot noir grapes do best on less fertile soils but in the wine-making process it is critical that the grapes are handled very carefully. Transporting grapes in an uncontrolled environment and subjecting them to temperature swings and bruising can significantly reduce wine quality. The current designation permits a vineyard but does not allow on-site processing.

While an Agricultural designation would allow a winery, according the PCCP those lands are typically "*characterized by large ownerships and few non-farm uses.*"¹⁶ In addition, the applicant intends to maintain a majority of the property as forest lands. The FFO zone would not restrict the types of uses allowed by current zoning. With an Agricultural designation there is no assurance that the applicant would retain over time the same flexibility to manage in the future, which is desirable on small parcels because it gives them the best opportunity to respond to changing conditions.¹⁷

Applicant argues in conclusion that all Oregon Statewide Planning Goals have been addressed. No goal exception is necessary in order to approve these applications. The applicant intends to manage the land in a mixture of agricultural and forest uses but neither Goals 3 or 4 can be applied alone to allow them the necessary flexibility. Therefore, the application complies with criterion "C-2" (PCZO 115.050(A)(3)(b)).

Staff believes the applicant is proposing a PCCP Map 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 4, 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 Goals 3, 4, or 14.

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 by the applicant, the subject property will be used for a mixture of farm and forest purposes. The subject property has historically been managed for timber production. While the majority of the property would be used for forestry purposes, the applicant would like to establish a vineyard and winery on the subject property. A winery is permitted under the uses permitted in the EFU zone, which implements Goal 3 and the Farm Forest and FFO zones, which implement Goals 3 and 4. The applicant has indicated that the FFO zone, which implements the Farm Forest PCCP designation and Goals 3 and 4, is preferable because it would allow the applicant the flexibility to manage the subject property for forestry, and for a potential winery in the future.

The subject property is accessed via an easement that connects to Highway 22. Highway 22 is principal arterial as 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. 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 a permanent forest product processing facility. Such uses could also produce high levels of traffic. ODOT manages access to Highway 22. ODOT provided comment indicating that they do not object to the

¹⁶ Page 63.

¹⁷ An example might be a portable saw mill. In addition, because the EFU zone regulates uses by statute, it is possible that in the legislature might adopt restrictions that are not now foreseeable.

proposed PCCP amendment and zone change. ODOT did indicate; however, that a proposed winery may require a new or amended approach road permit. Staff does not believe the uses permitted in the FFO zone would create a significantly higher or lower level of traffic from the uses that are permitted in the TC zone. Staff does 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. Staff recommended that the applicant contact ODOT to learn more about the access permitting process.

The applicant's proposal would apply the FFO zone in order to implement the Forest PCCP designation. The subject property is located in the Deer and Elk Winter Range, which is designated as a significant, Goal 5 resource on the Polk County Significant Resources Areas Map. PCZO 182.050(A) lists specific development standards in the Deer and Elk Winter Range; however, that section exempts the Farm Forest Zone from those standards. PCZO 182.050(A) reads as follows:

- (A) Deer and Elk Winter Range - To minimize impacts to deer and elk populations, the following standards apply (Note: Properties within the Rural Community Centers and areas zoned AR-5 and F/F are exempted from these requirements):
 - (1) Dwelling units are limited to a maximum of 1 unit per 40 acres;
 - (2) Dwelling units, roads, utility corridors and other development shall be sited on the least productive habitat land and away from sensitive slopes and soils;
 - (3) Development shall be clustered and located as close as possible to existing development and services, with only essential roads provided;
 - (4) Nonessential roads shall be closed and off-road vehicle use curtailed during the winter and spring.

The standards above place limitations on structural development on the subject property, which includes limitations on the number and locations of dwellings that are placed in the Deer and Elk Winter Range. The applicant applied for and was approved for a dwelling on the subject property by Polk County Planning Authorization FORD 11-08, effective December 19, 2011. That application included review and approval of a management plan that addressed the requirements of PCZO 182, including 182.050(A). Ongoing compliance with the management plan is required as a condition of approval to FORD 11-08. The proposed dwelling location was reviewed for compliance with PCZO 182.050(A)(1) through (3), and the requirements of PCZO 182.050(A)(4) were included as a condition of approval. The applicant has; therefore, demonstrated compliance with the applicable requirements of the PCZO that implement Polk County's program to comply with Goal 5. The PCZO only allows one primary dwelling on the subject property. Although the applicant has already been approved for a dwelling, and the requirements of PCZO Chapter 182 were applied to that application, staff recommended that approval of the proposed PCCP Map amendment and zone change include a condition that the subject property would continue to be subject to the requirements of PCZO Chapter 182 that apply to the portion of the property that is located in the Deer and Elk Winter Range. The applicant may be able to demonstrate how the proposed applications would comply with Goal 5 without this condition; however, such findings were not submitted in the application. The above mentioned condition would maintain the current Goal 5 protections for the subject property.

The Hearings Officer finds that the applicant has addressed all applicable Oregon Statewide Planning Goals. No goal exception is necessary in order to approve these applications. 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 zone change 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 of Commissioners 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 FFO 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.”*¹⁸ This designation would also allow the applicant to seek approval from Polk County for a winery pursuant to ORS 215.452, *et seq.* The applicant views a small-volume winery as an important component to a future vineyard operation at this location.

The applicant demonstrated above that the proposed zone change is consistent with the applicable purposes and policies for both the Agricultural Land and Forest PCCP designations.

Staff concluded that, as described in Section 4 of the PCCP, the Farm Forest Plan 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.

¹⁸ PCZO 138.010.

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 management of the subject property for a vineyard, forestry purposes, and potentially for a future winery, all uses permitted in the FFO zone, 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.

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.**

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 FFO zone is contained in PCZO chapter 138. The stated purpose of the Farm Forest 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."*¹⁹

While a majority of the property will continue to be managed as forest land, up to 20 acres will be planted into a vineyard and in a few years the applicant intends to have a small family-owned winery to process grapes on-site. The Farm Forest Zone was adopted by Polk County to accommodate property owners who want to manage their land in both farm and forest types of uses.

Staff says 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. Based on the information submitted in the application, the subject property would be managed for vineyard use and forestry. The applicant would also like the opportunity to apply for a winery at some point in the future. The subject property contains approximately 80.5 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. Future development of the subject property would be restricted to the uses permitted in the FFO zone. The applicant has proposed a future use of the property that is either outright permitted in the FFO zone, or could be permitted through an administrative review process. If the applicant seeks to establish a winery in the future, the applicant would need to submit an

¹⁹ PCZO 138.010.

application and address all applicable criteria for the winery listed in PCZO Chapter 138.

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 says the adjacent area to the east, north and partially west is zoned Farm Forest and is comprised of a mixture of farming and forestry activities. Lands further to the north, across State Highway 22, properties are zoned EFU and consist of small and moderately-sized parcels including Chateau Bianca vineyard and winery, located at 17485 Hwy 22. Lands to the south and west are mostly zoned TC and currently managed for growing wood fiber.

The types of activities associated with growing grapes is compatible with forest land management activities. During start up to establish a healthy vineyard, the applicant is planning on applying and limiting chemical use to only fungicides. Whenever possible this will be in the liquid form, spraying grapes in close proximity and directly onto the grapevine canopy using a small vineyard tractor, so that there is virtually no over-spray.

Applicant contends that, in general, Oregon's winemakers are stewards of the land with a collective passion for growing fruit and making wine in a sustainable manner. An impressive percentage of Oregon's vineyard acreage is certified as sustainable, organic or biodynamic. Even among the many Oregon vineyards that are not officially certified, sustainability is both a priority and a lifestyle. And the benefits are two-fold; the practices are gentle on the earth and many winemakers believe they result in brighter, more flavorful wine that better reflects the characteristics of the land from which they are grown. The applicant shares this view and will act accordingly.

There are several organizations associated with Oregon's wine industry that assist grape growers with sustainability practices and certification and include: LIVE, Inc.; Vinea, The Winegrower's Sustainable Trust; Oregon Tilth Certified Organic; and Demeter Certified Biodynamic. The applicant intends on following these same footsteps.

The applicant qualified for a dwelling right permitted under the template test provisions. The house site is near the center of the property. The applicant will maintain fire buffers in accordance with Polk County zoning provisions. The winery would be sited in the far northeast corner of the property, near where an agricultural building will be constructed.

The typical activities associated with a winery are compatible with other land uses, including residential, in that most of the wine-making occurs inside a building and generates little noise or smells that would be detectable from other properties. The typical activities will be similar to what occurs during other farming or forest activities. Traffic from a small-scale winery would also be minor, consisting mostly of an occasional delivery vehicle. Even wineries open to the public for tasting and purchasing of wine, generally generate little traffic. The applicant has not decided whether they will offer wine-tasting and retail purchasing at this location. Those decisions will be made at the time the applicant is ready to apply for the winery,

The proposed designation will not adversely impact uses on adjacent lands, because the uses proposed by the applicant are consistent and compatible with those other types of farm, forest, and residential uses.

Staff states that the applicant is proposing a zone change of the subject property from TC to FFO. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. The uses allowed in the FFO zone are the same as the uses allowed in the FF zone. Based on a review of the Polk County Zoning Map, neighboring properties are zoned either TC or FF. Based on a review of the 2008 Polk County aerial photograph, contiguous properties are primarily used for forestry purposes. Contiguous properties to the north contain dwellings.

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, a commercial activity in conjunction with farm use, and a winery. The applicant has indicated an intention to establish a winery at some point in the future 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 either FF or TC. Consequently, those uses that would be added to the permitted uses are already allowed on the neighboring properties that are zoned FF. Contiguous properties to the north, west, and east are zoned FF. It is commonly accepted that properties that have the same permitted uses are generally compatible with one another.

The uses that would be allowed under the FFO zone, that are not permitted in the TC zone, include certain conditional uses which may have offsite impacts. These uses include a commercial activity in conjunction with farm use, dog kennel, or a very large winery. The applicant has not indicated that they would establish any of those uses, but it would remain a possibility. Those conditional uses would require an application with Polk County, and the applicant would need to demonstrate how their specific proposal would comply with all conditional use standards, including a demonstration that “[t]he use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands” [PCZO 138.100(A)]. That analysis and opportunity for public involvement through the conditional use permitting process would ensure that conditional 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. Neighboring properties are either zoned TC or FF, so the uses that accommodate commercial forestry in the FFO zone would be the same as and; therefore, consistent with neighboring properties.

In consideration of the above factors, the uses permitted in the FFO zone would not significantly adversely affect allowed uses on adjacent lands. Based on the information provided by the applicant and the findings above, the Hearings Officer finds 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 says the proposed uses will not create a greater demand on any public facilities, services, or the transportation network. Domestic water usage will be strictly from an on-site well.

The dwelling structure on the property will be serviced by the Southwest Rural Fire Protection District. Funding for district services are collected through tax assessments.

The internal driveway and culverts are designed to a 50,000 pound capacity. A hammerhead turnaround was designed to be serviceable for large vehicles, including fire trucks. Polk County will require the owner to maintain primary and secondary fuel breaks around the dwelling to reduce the risk of wildfire.

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

An existing private driveway provides access to Highway 22 by an easement that crosses "Tract 5" as recorded in Polk County Clerk Document 2011-008224. The ODOT permit number for this access is #3A35385. The Oregon Department sent a letter dated January 6, 2012 to the applicant indicating the existing access was in compliance and no further improvements were required. The easement was recorded in Polk County Clerk Document 2011-008343 and grants a utility and roadway easement 60 to 105 feet wide, which includes a Maintenance Agreement.

Staff believes 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 a water intensive uses that are out of scale with the land and water resources available on the subject property.

The subject property is accessed via an easement that connects to Highway 22. 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. 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. ODOT provided comment to these applications and indicated that they did not have an objection to the proposed applications. ODOT indicated that the current access to the subject property was recently reviewed in response to the applicant's earlier request for dwelling on the subject property. ODOT found at that time that a new or amended approach road permit was not necessary. In their comment, ODOT indicates that if the applicant establishes a winery on the subject property that a new or amended approach road permit would be required.

Staff did not believe that a change from TC to FFO would result in a significant change to the amount of traffic that would be attracted to the subject property. As a result, staff does not believe that the proposed change would create a significant impact on traffic use on Highway 22, and would not result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. The Southwest Polk Rural Fire Protection District and the Polk County Sheriff Department provide emergency services at the subject property.

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, and the Hearings Officer agrees. Approval of this 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 Hearings Officer finds that 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)]**

A zone map amendment to FFO is consistent with the land use density and pattern of development in this area, which includes parcels of various sizes and land uses that include other farms, a winery and vineyard, some forested and partially forested parcels, and scattered rural residence, including several adjacent to the applicant's. Most parcels east of the applicant's have the FFO Zone designation. While the TC Zone was appropriate when part of a large tract owned by a timber company, now that the subject parcel is no longer part of this tract and the owner has

different land management goals the proposed change is appropriate.

Staff concluded that, as discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used primarily for forestry purposes. The FFO zone permits an array of uses that support agricultural and forestry activities. The FFO zone allows both the uses permitted in the current TC zone and the EFU zone. The FFO zone permits the same uses as the FF zone. Neighboring properties are zoned TC and FF, 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 TC zone, staff concluded that 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 TC zone, and more than the 40-acre minimum parcel size in the FF zone. The proposed zoning would not change the current potential parcel density of 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 Polk County 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.

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

Exhibit "A" set out below demonstrates, applicant maintains, how this application complies with Oregon Revised Statutes, all applicable Statewide Planning Goals, and associated Oregon Administrative Rules, including the Transportation Planning Rule. No goal exception is required because the FFO maintains the 80-acre minimum parcel size standard. Applicant contends the application complies with criterion "g" (PCZO 111.275(G)).

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.

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.²⁰ The Polk County Hearing Officer will conduct the initial hearing.²¹ The Board of County Commissioners will conduct its own hearing *de novo* prior to a final decision being rendered.²² 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.

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

²⁰ PCZO 115.03(C).

²¹ PCZO 115.030(B).

²² PCZO 115.030(C).

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 and implementing ordinances have been determined to be in compliance with the Statewide Planning Goals. The Hearings Officer finds that this goal is met.

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

Applicant claims that 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 land can also include lands suitable for specialized crops. Grapes are a good example. Vineyards are often planted on less fertile hillsides, because they are more stressed and, therefore, able to produce more fruit and less vine growth. In these areas the plants are also less susceptible to early frost. Jory soils are especially desired for pinot noir grapes, because they have good drainage, while a high clay content retains moisture. The soils contain large amounts of iron (hence the reddish color) and are volcanic in origin, which contribute to certain taste characteristics.²³

The applicant intends to eventually convert approximately 20 acres into a vineyard and maintain the remainder as forest land. When there is sufficient grape production the applicant intends to process the grapes into wine. This represents a long-term commitment by the applicant to a mixed farm and forest use. Therefore, changing the PCCP Map on the property into a Farm Forest designation and rezoning it to FFO is consistent with this goal. This goal is met.

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

Applicant says, as stated previously, the parcel contains soils that are suitable for both farm or forest uses. Most noteworthy are the Jory soils, which are very productive for growing Douglas fir trees, which is the predominate commercial tree species in western Oregon. While the applicant intends to convert some of their land into a vineyard, a majority of the property will continue to be conserved for forest uses, including timber production, wildlife habitat, and watershed protection. 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 says the Polk County Significant Resources Area (SRA) map indicates the entire subject property is located within a Goal 5 deer and elk winter range. The surrounding properties to the south and west are also located within this Significant Resource Area, while properties to the north are partially within the boundaries.

PCZO Chapter 182 is the primary set of regulations that implements Goal 5. This chapter identifies specific "conflicting uses". Any proposed conflicting uses require Polk County to coordinate with the applicable state and federal agencies.²⁴ The proposed PCCP and Zone Map amendments do not require an Economic, Social, Environmental, and Energy (ESEE) analysis.²⁵

While PCZO 182(050) contains a note that exempts application of the SRA map and implementing code criteria contained in PCZO Chapter 182 for properties within the FFO Zone, the applicant will not object to future development being subject to PCZO Chapter 182 to ensure compliance with Goal 5.²⁶

The applicant submitted a Wildlife Management Plan in conjunction with the template dwelling application approved in 2011 by Polk County. The dwelling on a 80.5 acre parcel was

²³ There have even been efforts to make "Jory" soil the official state soil.

²⁴ See also OAR 660-23-000 et seq.

²⁵ This process is described in OAR 660, division 23.

²⁶ PCZO 182.080.

determined to exceed the minimum density of one dwelling per 40 acres in a SRA. The decision became effective on December 19, 2011. The Plan proposed specific mediation steps to reduce conflicts associated with logging activities. These include restrictions on logging activities during spring migration of elk to lower elevations and prior to logging any nesting areas would be examined to assure that no threatened or endangered species are present. While farming activities are not restricted in either the TC or FFO zones, the applicant is willing to work with the Oregon Department of Fish and Wildlife (ODFW) to minimize future conflicts.

None of the property is designated as open space, cultural, or historic by the PCCP. The proposed map amendments are not in conflict with Goal 5. The Hearings Officer finds that 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.*

Vineyards, as an agricultural activity, are regulated primarily by the Oregon Department of Agriculture²⁷. The applicant will follow best management practices in terms of applying chemicals, protecting riparian corridors, and preserving air and water quality. During start up of the vineyard the applicant will limit chemical use to only fungicide, spraying directly onto the grape canopy using a small tractor so that there is no over spray. The applicant intends to work with organizations associated with Oregon's wine industry that will assist with sustainability practices. Like many winemakers associated with growing grapes and making wine, the applicant has a passion for growing fruit and making wine in a sustainable manner. Not only is this good for the earth, it also makes for a brighter, more flavorful wine that better reflects the characteristics of the land from which they are grown. The Hearings Officer finds that this goal is met.

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

Polk County does not have an adopted landslide hazard map. However, there are no steep slopes and there is a low risk for debris or land slides. The property was replanted after trees were harvested several years ago and the vegetative ground cover will help reduce the risk of soil erosion. When the vineyard is planted, grapes will be laid out along contours to capture moisture and reduce soil erosion.

Based on a review of the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) the property is outside of the identified 100-year floodplain.²⁸ The property is not located within a federally designated floodplain.

The applicant will reduce the risk of fire by doing a series of mitigation measures required by Polk County as part of its approval for the template dwelling. These are specified under condition 6 (a-e) in the final decision for the template test and are also listed in PCZO 177.070. The property is located in the S.W. Polk Rural Fire Protection District. The agency submitted its recommendations that are listed in condition 6. The Hearings Officer finds that 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.*

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 diversity and improve the economy of the state.*

Currently, Oregon has over 17,400 acres planted in various types of wine grapes and more than 1.5 million cases of wine are produced each year, making wine a \$200 million industry. In the early 1980s, approximately 30 wineries existed in Oregon. By the year 2000, more than 200

²⁷ 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.

²⁸ Panel no. 41053C00075F, dated December 19, 2006.

wineries were in operation, and by 2009 there were nearly 400 wineries and 800 vineyards in Oregon. 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 and has led the way in diversification of Oregon's agricultural economy.²⁹ The Hearings Officer finds this goal is met.

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

The applicant's property qualified for a template dwelling under PCZO Chapter 177. This is an important aspect of their business plan, because they intend to do much of the day to day work themselves along with their children as a family-run business. No additional dwellings are being requested. The Hearings Officer finds that this goal is met.

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.

Domestic water will be obtained from a well to be drilled on the property. The Polk County Sanitarian has approved the property for an on-site standard system. Access to the subject property is from State Highway 22 and is under permit from the Oregon Department of Transportation. 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 nor will they seek 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 the Transportation Planning Rule (TPR), the State Transportation Plan, and the Polk County Transportation System Plan (TSP. The State and Polk County transportation plans have been determined to be in compliance with the TPR (OAR 660-012-0060).

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.³⁰

This section of Highway 22 is a designated Major Freight Corridor.³¹ It is a primary route between the coast to east of the Cascade Mountains.

The plan and zone map amendments and proposed uses will not result in any more traffic that what is currently generated by the management of the property for timber except for additional traffic that one dwelling will generate. Occasionally the applicant might seek assistance with some activities, such tree thinning, herbicide spraying, and pruning, but the applicant intends this to be largely a family-run business. The Hearings Officer finds this goal is met.

GOAL 13- Energy Conservation: To conserve energy.

There has been considerable research in recent years on ways in which forest management and farm management practices can reduce energy consumption. The applicant will utilize such “best management types” where practicable. By residing on the property, the applicant will be able to reduce the amount of driving they would otherwise do to commute to and from their property. The Hearings Officer finds this goal is met.

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

²⁹ 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.

³⁰ OAR 660-012-0060(1).

³¹ This section of highway is called the Willamina-Salem Highway and is State Highway 30 in the State's system.

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 within the designated Willamette River Greenway. Therefore, this goal does not apply.

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

Staff says 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 above, the applicant's proposal complies with the Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules.

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

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)]

Applicant says this property is accessed from State Highway 22, which is managed under authority of the Oregon Department of Transportation (ODOT). As such, ODOT has the permitting authority for both ingress and egress. This section of Highway 22 is a designated Major Freight Corridor. It is a primary route between the coast to east of the Cascade Mountains.

The plan and zone map amendments and proposed uses will not result in any more traffic that what is currently generated by the management of the property for timber. The approved dwelling will generate a slight amount of traffic but that was previously reviewed by ODOT under the recently approved template dwelling.³² Occasionally the applicant might seek assistance with some activities, such tree thinning, herbicide/fungicide spraying, and pruning, but the applicant intends this to be largely a family-run business. If a winery is developed in the future, ODOT would have an opportunity to once again comment on the application. However, this winery would be small and would generate little additional traffic. The Hearings Officer finds that the applicant complies with criterion "h" (PCZO 111.275(H))

Staff says the subject property is accessed via an easement that connects to Highway 22. If the proposed PCCP and Zoning Map amendments 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. 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. ODOT provided comment to these applications and indicated that they did not have an objection to the proposed applications. ODOT indicated that the current access to the subject property was recently reviewed in response to the applicant's earlier request for dwelling on the subject property. ODOT found at that time that a

³² See FORD 11-08SR.

new or amended approach road permit was not necessary. In their comment, ODOT indicates that if the applicant establishes a winery on the subject property that a new or amended approach road permit would be required. Based on the above information, staff does not believe that a change from TC to FFO would result in a significant change to the amount of traffic that would be attracted to the subject property.

CONCLUSION; DEVELOPMENT STANDARDS

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 12-01 and ZC 12-01. However, future development on the subject property shall 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.

Staff and the Hearings Officer further RECOMMEND that if PA 12-01 and ZC 12-01 are approved, it shall be made clear that approval of each application is dependent upon approval of the other. Staff and the Hearings Officer also RECOMMEND that the subject property be subject to the standards for development in the Deer and Elk Winter Range, including PCZO 182.050(A) notwithstanding that the text of PCZO 182.050(A) exempts the FF zone from application of that standard.

Dallas, Oregon, July 18, 2012.



Robert W. Oliver

Polk County Hearings Officer

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