



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/04/2013

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 004-12

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: Friday, February 15, 2013

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
Angela Lazarean, DLCD Regional Representative

<paa> YA

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 11-01 and ZC 11-02**

Date of Adoption: **1/23/2013**

Date Mailed: **1/25/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: 9/11/2012

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 applicant was approved for Comprehensive Plan Map and Zoning Map amendments for an approximately 1,273 acre tract. Polk County Ordinance 13-03 changes the Comprehensive Plan Map designation from Agriculture to Farm/Forest and the zoning designation from Exclusive Farm Use (EFU) to Farm/Forest Overlay (FFO). The applicant concurrently applied for conditional use authorization (CU 12-09) to operate a permanent sawmill on the subject tract. CU 12-09 was approved by the Hearings Officer and became effective on December 26, 2012. Implementation of CU 12-09 was dependent on approval of these Comprehensive Plan Map and Zoning Map amendments.

Does the Adoption differ from proposal? No

Plan Map Changed from: **Agriculture**

to: **Farm/Forest**

Zone Map Changed from: **EFU**

to: **FFO**

Location: 4550 North Oak Grove Road, Rickreall, OR 97371

Acres Involved: **1,273**

Specify Density: Previous: **80 acre min. parcel size**

New: **80 acre min. parcel size**

Applicable statewide planning goals:

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

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. 004-12 (19496) [17343]

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: **OR**

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

ADOPTION SUBMITTAL REQUIREMENTS

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

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

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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

8 In the matter of Plan Amendment PA 11-01 and)
9 Zone Change ZC 11-02 that would authorize a)
10 Comprehensive Plan Map amendment and Zoning)
11 Map Amendment on an approximately 1,273 acre)
12 tract of land.)
13

14 **ORDINANCE NO. 13-03**
15

16 **WHEREAS**, the Board of Commissioners held a public hearing on January 9, 2013
17 with due notice of such public hearing having been given, and provided an opportunity for
18 public comments and testimony; and
19

20 **WHEREAS**, the Board of Commissioners received a recommendation in support of
21 Plan Amendment PA 11-01 and Zone Change ZC 11-02 from the Polk County Hearings
22 Officer based upon his public hearing and conclusions; and
23

24 **WHEREAS**, the Board of Commissioners received a recommendation in support of
25 Plan Amendment PA 11-01 and Zone Change ZC 11-02 from Polk County Planning staff
26 based upon the findings and evidence in the record; and
27

28 **WHEREAS**, on January 9, 2013, the Board of Commissioners publicly deliberated
29 and unanimously passed a motion to approve Plan Amendment PA 11-01 and Zone Change
30 ZC 11-02; now therefore,
31

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

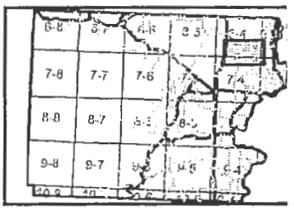
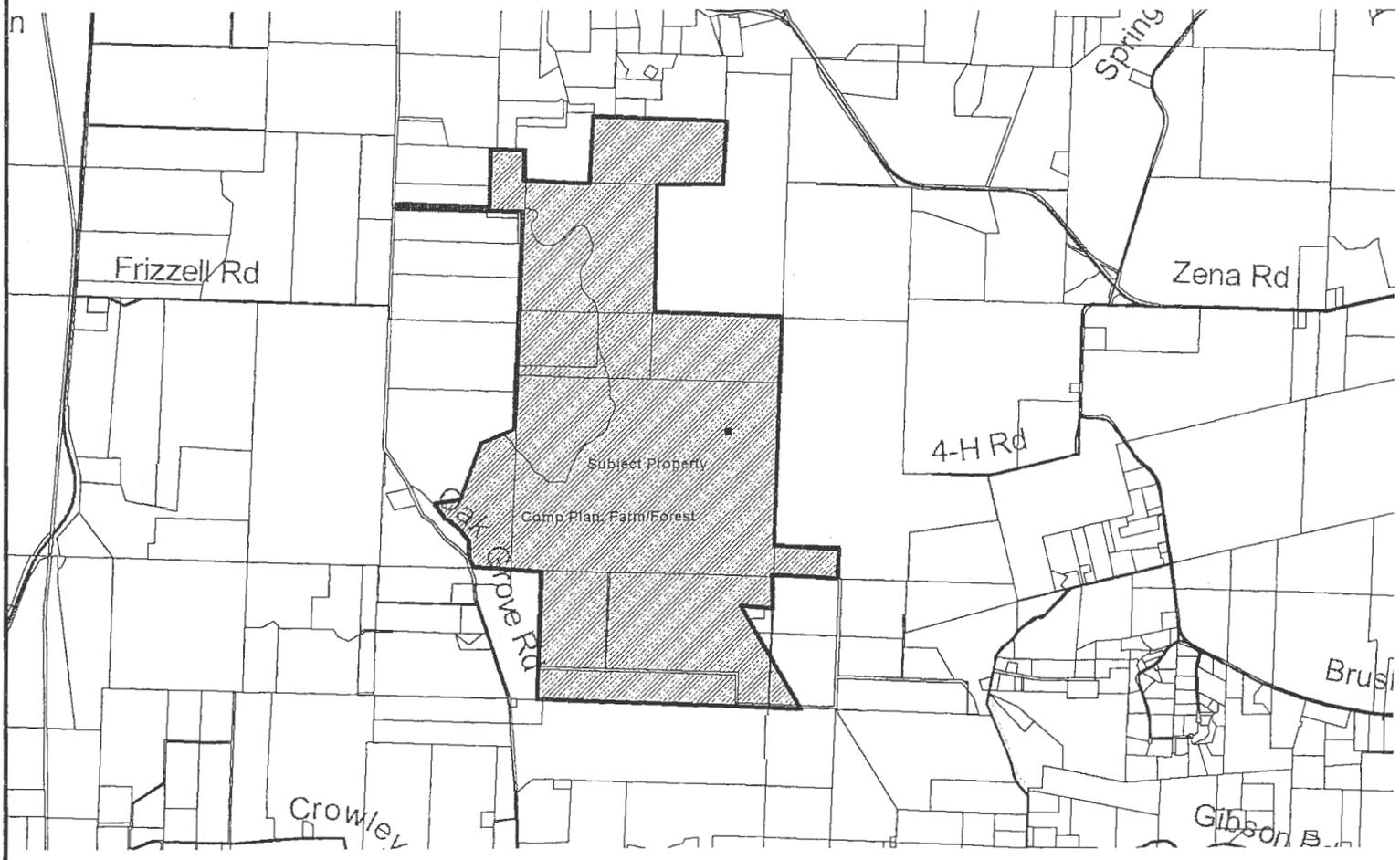
34 Sec. 1. That Polk County adopts the findings for Plan Amendment PA 11-01 and
35 Zone Change ZC 11-02 located in the Hearings Officer's recommendation as shown on
36 Exhibit C.
37

38 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for
39 the approximately 1,273 acre tract from Agriculture to Farm/Forest. The subject tract is
40 depicted on Exhibit A and is identified on the Assessment Map as:
41

42 T6S, R4W, Section 27, Tax Lots 200, 500, and 501;
43 T6S, R4W, Section 28, Tax Lot 900;
44 T6S, R4W, Section 33, Tax Lots 500 and 501;
45 T6S, R4W, Section 34, Tax Lots 100, 200, 201, 202, 300, and 301;
46 T6S, R4W, Section 35, Tax Lot 201; and
47 T7S, R4W, Section 3, Tax Lot 200
48
49

Community Development

-  County
-  Roads
-  GRAVEL
-  OTHER
-  STATEHWY
-  PU-GRAVEL
-  PAVED
-  Taxlot12



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. = 3300 ft.

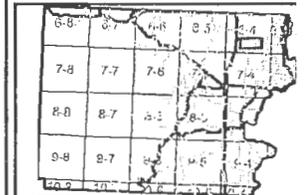
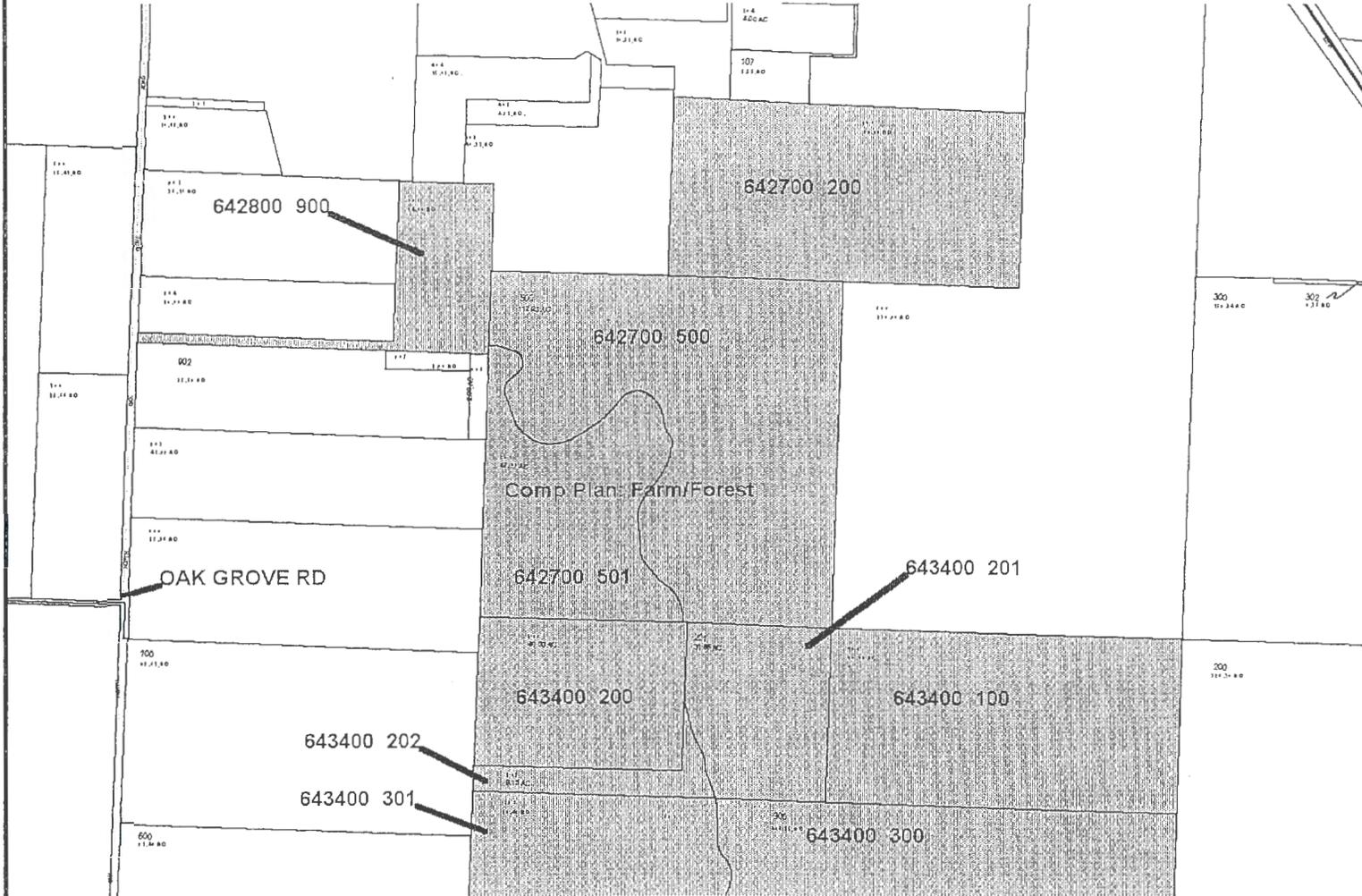


1/15/2013



Community Development

-  County
-  Roads
-  GRAVEL
-  PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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1 in. = 1200 ft.

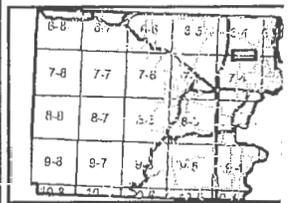
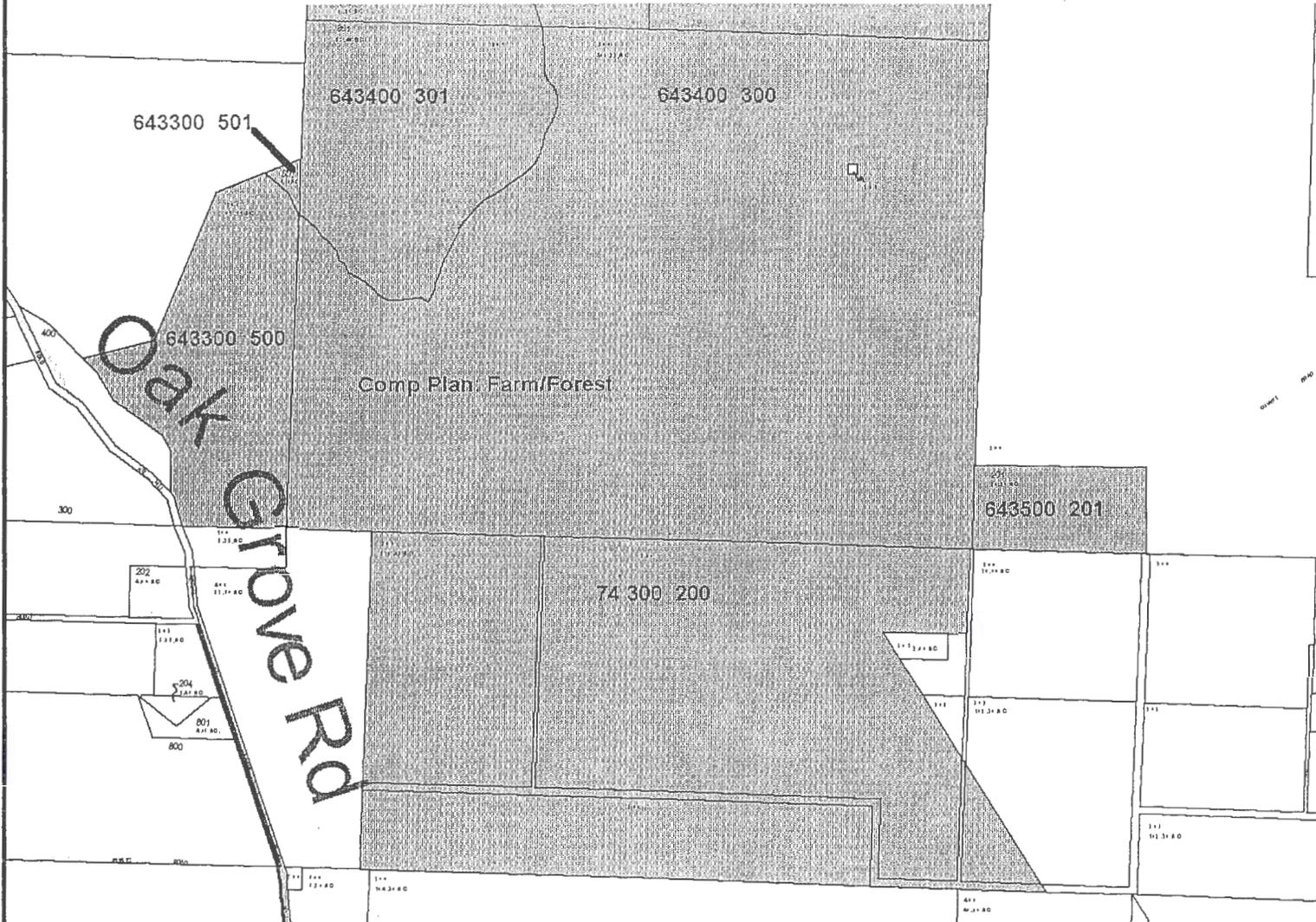


1/15/2013



Community Development

-  County
-  Roads
-  GRAVEL
-  OTHER
-  PU-GRAVEL
-  PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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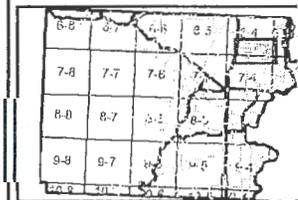
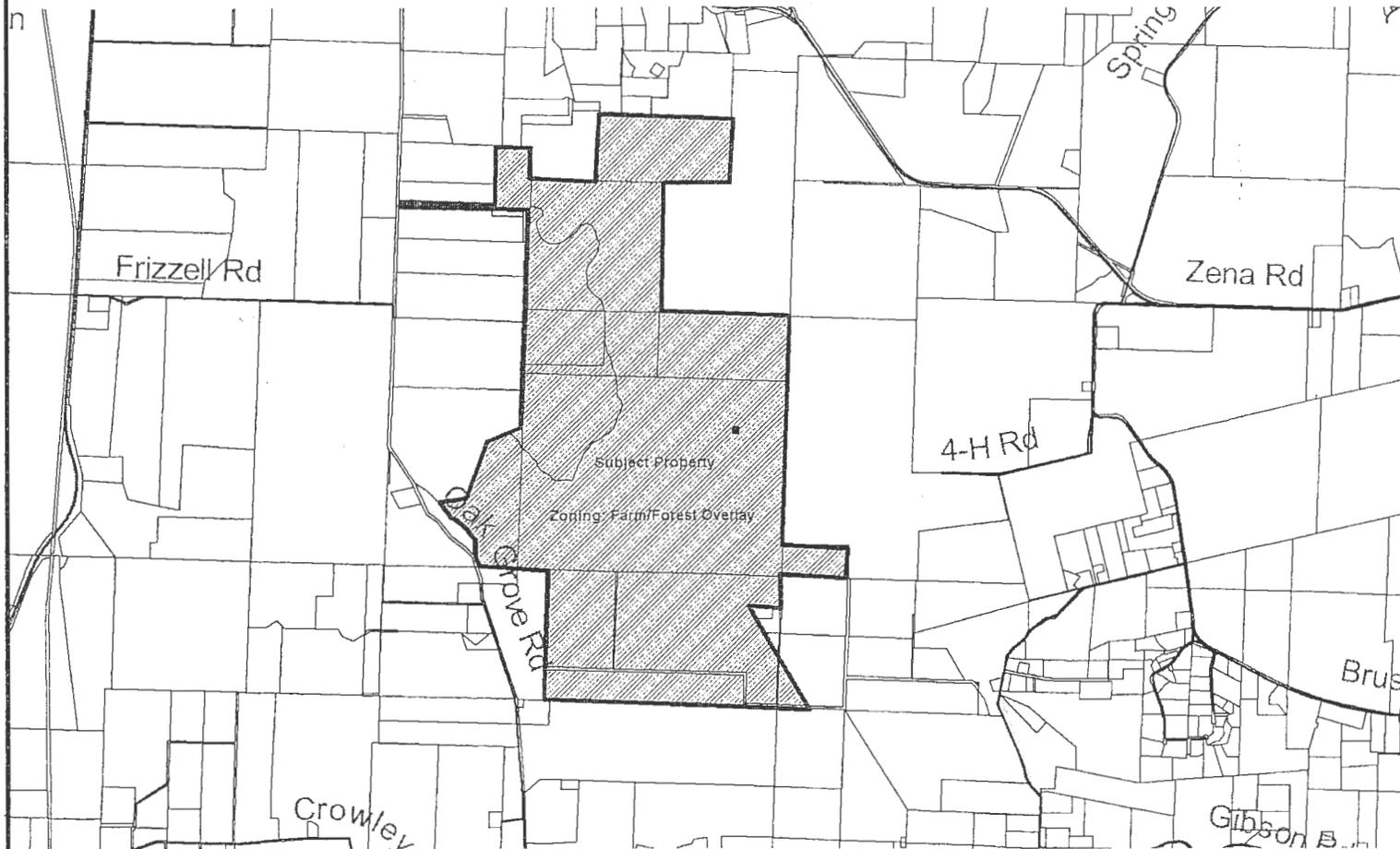
1/15/2013



ZC 11-02

Community Development

- County
- Roads
 - GRAVEL
 - OTHER
 - STATEHWY
 - PU-GRAVEL
 - PAVED
- Taxlot12



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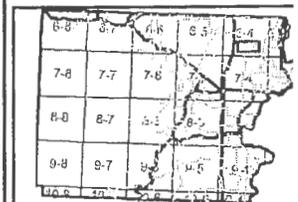
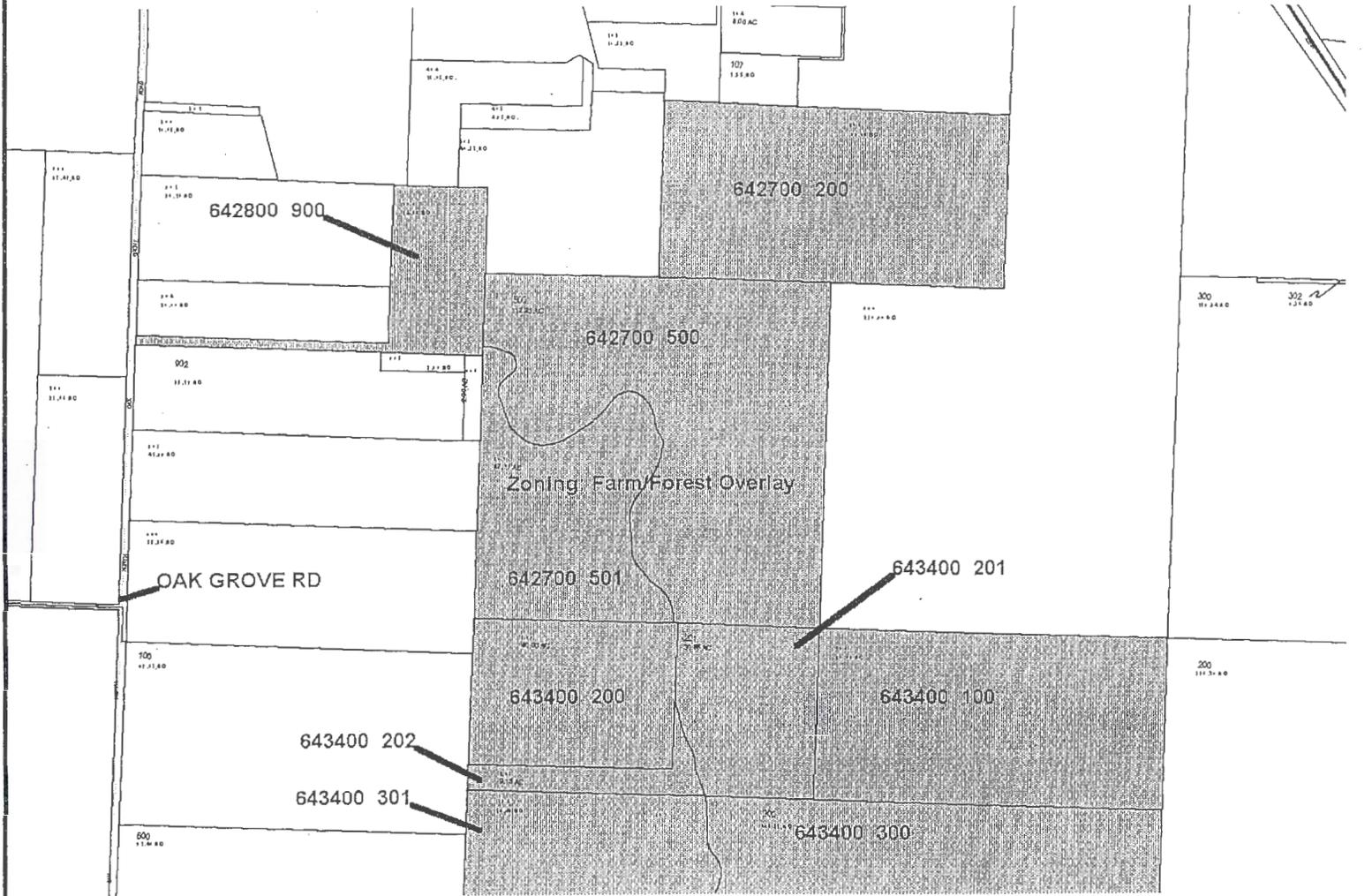
1/15/2013



ZC 11-02

Community Development

-  County
-  Roads
-  GRAVEL
-  PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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1/15/2013

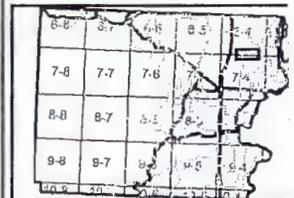
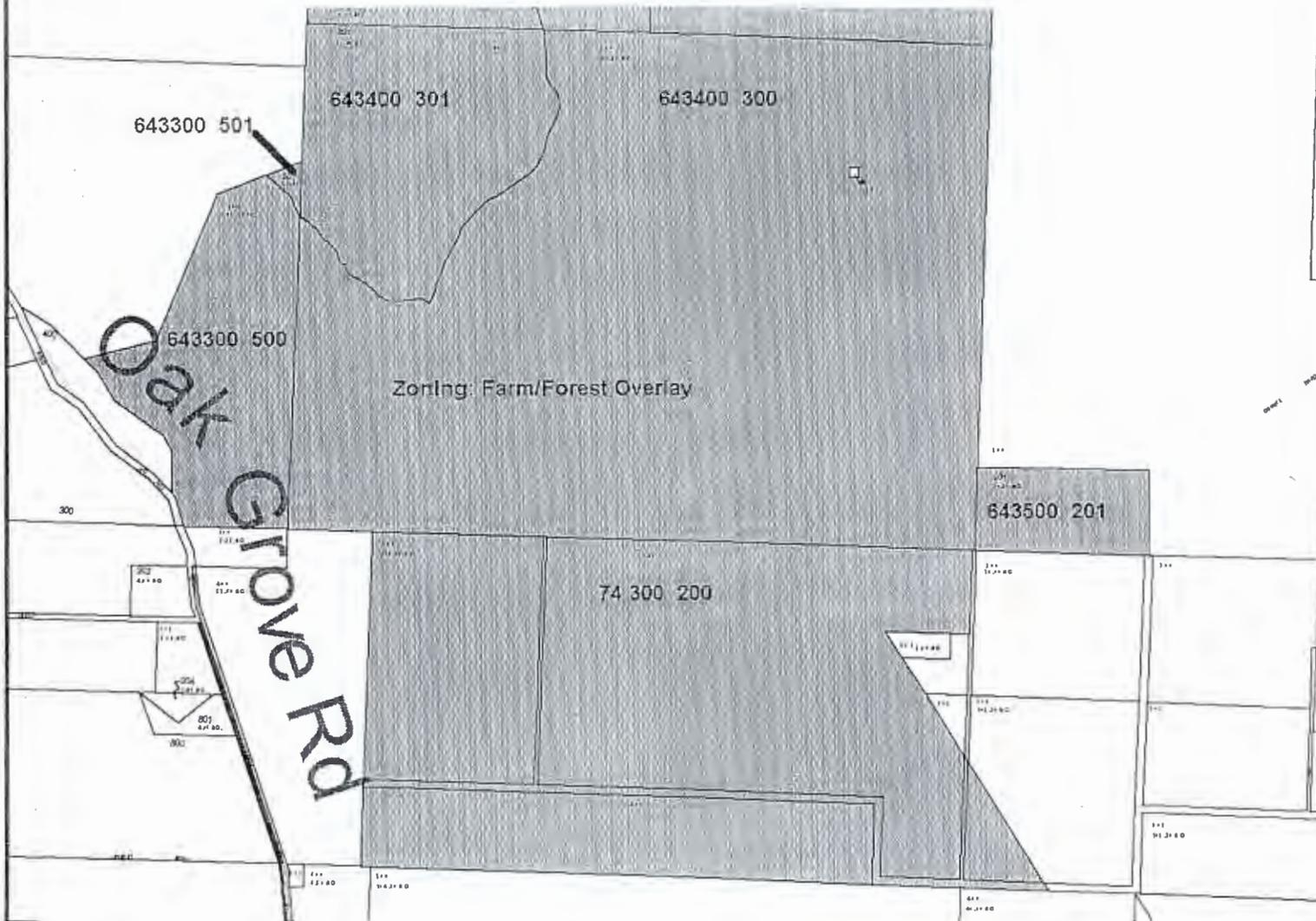


Exhibit B-2

ZC 11-02

Community Development

-  County
-  Roads
 - GRAVEL
 - OTHER
 - PU-GRAVEL
 - PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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1/15/2013



Exhibit B-3

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

RECEIVED
DEC 10 2012

In the Matter of the Applications of
Zena Forest, LLC, Ben Deumling

(Plan Amendment 11-01
(Zone Change 11-02
(Conditional Use 12-09

POLK COUNTY
COMMUNITY DEVELOPMENT

SUMMARY OF PROCEEDINGS

This matter arose on the application of Zena Forest, LLC, Ben Deumling co-owner, for:

1. An amendment to the Polk County Comprehensive Plan (PCCP) Map to change the designation of an approximately 1,273-acre tract from Agriculture to Farm/Forest.
2. A zoning Map amendment to change the zoning of the approximately 1,273-acre tract from Exclusive Farm Use (EFU) to Farm/Forest Overlay (FFO).
3. A conditional use permit to operate a permanent sawmill (Permanent Facility for the Primary Processing of Forest Products) on the subject tract.

The subject tract is located at 4550 North Oak Grove Road, Rickreall, Polk County, Oregon. The applicable review and decision criteria are Polk County Zoning Ordinance (PCZO) Sections 111.140, 111.275, 115.050(A), 119.070, 138.060(A), 138.100(A) & (B), 138.110, and 138.120.

The subject property is currently designated Agriculture on the PCCP Map and EFU on the Zoning Map. The applicant is proposing to change the PCCP designation of the subject property to Farm/Forest and the zoning to FFO.

The applicant has concurrently applied for a conditional use permit in order to operate a permanent facility for the primary processing of forest products – a sawmill – on one of the parcels contained within the tract. Approval of the conditional use permit would be contingent on approval of the PCCP Map amendment and the zoning Map amendment.

According to the information provided in the application, the primary purpose of this application is to update the PCCP and Zoning Maps in order to accurately reflect the established uses of the subject property and to allow approval of a conditional use for a small sawmill on the subject property. The proposed FFO zone allows a permanent facility for the primary processing of forest products as a conditional use. According to the applicant, approximately 1,218 acres of the subject property are in timber production, 50 acres are in agricultural crops or pasture, and 5 acres are used as a home-site and proposed for sawmill development.

Applications PA 11-01 and ZC 11-02 were originally submitted on October 28, 2011. Those applications were amended and resubmitted in their current form on August 17, 2012. The applicant also submitted application CU 12-09 on August 17, 2012. CU 12-09 was deemed complete when the applicant submitted additional information on September 28, 2012.

Applications PA 11-02 and ZC 11-02 were evaluated concurrently, and approval of each application shall be dependent upon approval of the other. Therefore; both applications must become effective in order to implement this approval. Approval of CU 12-09 is dependent on approval of PA 11-01 and ZC 11-02.

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

Location	Comprehensive Plan Designation	Zoning Designation (See Zoning Map Attachment C)
Subject Property	Agriculture	Exclusive Farm Use
Property North	Agriculture and Farm/Forest	Exclusive Farm Use and Farm/Forest
Property South	Agriculture	Exclusive Farm Use
Property East	Agriculture and Public	Exclusive Farm Use and Public and Private Educational Facilities
Property West	Agriculture	Exclusive Farm Use

The subject tract contains approximately 1,273 acres. The subject tract contains a parcel with the situs address of 4550 North Oak Grove Road, Rickreall, OR. The subject tract is identified on the Assessment Map as follows:

- T6S, R4W, Section 27, Tax Lots 200, 500, and 501;
- T6S, R4W, Section 28, Tax Lot 900;
- T6S, R4W, Section 33, Tax Lots 500 and 501;
- T6S, R4W, Section 34, Tax Lots 100, 200, 201, 202, 300, and 301;
- T6S, R4W, Section 35, Tax Lot 201; and
- T7S, R4W, Section 3, Tax Lot 200

The applicant, Zena Forest LLC, also owns property identified as Tax Lots 403, 404 and 405 in T6S, R4W, Section 27 that is designated Farm/Forest on the PCCP Map and FF on the Zoning Map. That property is contiguous to the subject tract, but not included in this application. Also, a 5,625 square foot property identified as Tax Lot 501 (T6S, R4W, Section 34) is surrounded by the subject property. Tax Lot 501 is not owned by Zena Forest LLC, and is not a part of this application.

Based on a review of the Polk County Assessor records, the subject property contains one dwelling and three (3) accessory structures. The dwelling was permitted by Polk County Planning Authorization FORD 94-1 and Building Permit 87-120. Based on a review of Polk County Planning records, the subject property was approved for a series of property line adjustments between parcels within the tract. Those approvals are identified as LLA 05-55, LLA 05-56, LLA 05-57, LLA 05-58, LLA 05-59, and LLA 05-60. Those property line adjustments created the current configuration of the parcel that would contain the sawmill proposed in CU 12-09 and the dwelling located at 4550 North Oak Grove Road, Rickreall, Polk County, Oregon. That parcel contains approximately 132 acres and is identified on the Assessment Map as T6S, R4W, Section 27, Tax Lot 501; T6S, R4W, Section 33, Tax Lot 501; and T6S, R4W, Section 34, Tax Lots 200, 202, and a portion of 301. See Attachment B of the staff report.

Based on a review of the Polk County Significant Resource Areas Map, the subject property borders an unnamed tributary to Ash Swale. That tributary runs adjacent to Oak Grove Road and is identified as a significant fish bearing stream. A small portion of the southeast corner of the subject tract is located within the impact area adjacent to the "Freeman Quarry," which is identified on Polk County's inventory of significant aggregate sites. Based on a review of the National Wetland Inventory map, Rickreall and Amity quadrangles, the subject tract contains unnamed creeks that are identified as

and separate them from conflicting non-farm uses. Toward that end, the County will discourage the division of parcels and the development of non-farm uses in a farm area (Only those non-farm uses considered essential for agriculture will be permitted).

The Agriculture Plan designation will be implemented throughout the Exclusive Farm Use Zones. [PCCP Section 4, Land Use Plan Designations, Agriculture]

2. FOREST

The areas designated as Forest are located within the western reaches of the County, primarily in the Coast Range. These areas generally have large holdings and few urban uses. The predominant use in the Forest area is timber production. Besides providing employment and wood products, forest lands are valued by County residents for the opportunities they present for enjoyment of scenic beauty, open space and recreational activities such as camping, fishing, hiking, hunting and swimming. Forest lands also play a valuable role in helping to maintain air, land and water quality and in serving as habitats for fish and wildlife.

It is the intent of the Forest Plan designation to conserve forest lands for continued timber production, harvesting and processing. This designation also aims to protect watersheds and wildlife habitats. Land use activities will be permitted for which it can be demonstrated that potential hazards from fire, pollution or ecological damage from over use will be minimal.

In general, the Forest Plan designation will be implemented through the Timber Conservation Zone. [PCCP Section 4, Land Use Plan Designations, Forest]

3. FARM/FOREST

The Farm/Forest designation applies to lands which, for the most part, lie between the relatively flat agricultural areas and the foothills of the Coast Range.

These lands are generally hilly, heavily vegetative, and have scattered areas of residential development. These lands had originally been designated Rural Lands. However, the Land Conservation and Development Commission (LCDC) did not grant a general exception to the Oregon Statewide Planning Goals, as requested by the County, for approximately 41,000-acres of Rural Lands designated properties. As a result, those properties converted to the Farm Forest Plan Designation. There are many full-time farms located in this area; however, more of the smaller part-time farms that exist in the area were created through the land division process when the area was designated Rural Lands. The Farm Forest Plan Designation recognizes those smaller properties. These areas exhibit a predominance of agricultural soils and timber lands as defined by State statutes.

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.

The Farm/Forest Zone Overlay is implemented by the Farm/Forest zone and the additional provisions of the EFU zone for land divisions and farm dwelling approvals. The Farm/Forest zone shall be applied to land where the parcelization pattern was predominately less than 80 acres as of October 12, 1988. The Farm/Forest zone overlay shall be applied to land where the parcelization pattern is greater than 80 acres located along the perimeter of the Farm Forest designation, or in large block within the Farm Forest Designation. [PCCP Section 4, Land Use Plan Designations, Farm/Forest]

Applicant states that the land is currently designated as Agriculture in the PCCP, which is defined as *areas with few non-farm uses, gentle topography, and a predominance of agricultural soils class I-IV*¹. The land does not adequately meet this definition. Instead, the land lies along the steep west facing slope of the Eola Hills, is heavily vegetated, and consists of primarily soil class VI and VII, with approximately 29% in class IV soils. The subject property has been managed primarily for timber production since 1985, with less than 5% in agriculture production. This combination of soils and historic uses better meets the Farm Forest designation in the PCCP.

The applicant makes the assertion that the current PCCP designation of Agriculture is erroneous and the Farm/Forest designation would more closely match the characteristics and uses established on the tract. PCZO 115.050(A)(1) allows a PCCP amendment if the designation is erroneous and the proposed amendment would correct that error. This criterion would clearly apply to amendments intended to fix unintentional mapping errors; however, staff believes that it is also appropriate to apply this criterion to circumstances where a new PCCP designation has been created that would more closely match the existing characteristics and uses established on the property in question. That scenario is applicable to this application.

It is useful in this situation to review the history associated with the creation of the Farm/Forest PCCP designation. After the adoption of the statewide planning goals by the Oregon Legislature in 1975, and the adoption of ORS 197 and 215, counties were required to “prepare and adopt comprehensive plans consistent with the statewide planning goals... [and to] enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans” (ORS 197.175). The first resource designations in the original PCCP divided land between Agricultural Areas and land used for Forestry (Ordinance 137, dated December 4, 1975). While the original, 1975 PCCP was not acknowledged as consistent with the Oregon Statewide Planning Goals, it demonstrates that a mixed use, farm/forest designation was not a part of the original Plan.

The roots of the creation of the Farm/Forest Plan designation lie with Polk County’s efforts to designate land for rural residential purposes. As described in Section IV of the PCCP, during the Plan acknowledgment process, the Land Conservation and Development Commission (LCDC) found that 41,000 acres that Polk County designated as Rural Lands, which would be zoned for rural residential purposes, was not consistent with the Statewide Planning Goals. In 1980, Polk County created and applied the Farm/Forest designation to those 41,000 acres.

The Farm/Forest PCCP Designation was adopted under Ordinance 274, dated November 19, 1980, and was acknowledged to be consistent with the Statewide Planning Goals when it was revised under Ordinance No. 88-25, dated December 21, 1988. So, it was not until 1980 that a mixed use, farm/forest PCCP designation was adopted in Polk County. The Farm/Forest zone was created at the same time in 1980, to implement the Farm/Forest PCCP designation, and the Farm/Forest Overlay Zone was added to the Farm/Forest zone in 1988 under Ordinances 88-21. This legislative history indicates that a mixed, farm/forest PCCP designation was not created until the large majority of farm or forest parcels had already been designated as either Agriculture or Forest on the PCCP map. When the Farm/Forest PCCP designation was created it did not open all of the thousands of acres that were already designated as Agriculture or Forest for review to

¹ Comprehensive Plan P. 63

determine if they would be more appropriately designated Farm/Forest. As a result, there are numerous properties in Polk County that may be designated Agriculture or Forest that could justifiably be designated Farm/Forest. The tract of land that is the subject of this application is one such example.

As described in Section IV of the PCCP, properties that are classified as Agriculture have the following general characteristics:

The areas designated Agriculture occur mainly in the eastern and central sections of the County. These areas are characterized by large ownerships and few non-farm uses. Topography in these areas is usually gentle, including bottom lands, central valley plains and the low foothills of the Coastal Range. This diversity of terrain allows County farmers the option of producing a variety of commodities. Farmers can produce grain or livestock in level areas; set up orchards, vineyards and pastures on the hills; or develop woodlots (or farm forestry) on the foothills. The areas designated for agriculture have a predominance of agricultural soils (SCS capability class I-IV).

It is the intent of the Agriculture Plan designation to preserve agricultural areas and separate them from conflicting non-farm uses. Toward that end, the County will discourage the division of parcels and the development of non-farm uses in a farm area (Only those non-farm uses considered essential for agriculture will be permitted).

The Agriculture Plan designation will be implemented throughout the Exclusive Farm Use Zones. [PCCP Section 4, Land Use Plan Designations, Agriculture]

Based on a review of the information available through the Polk County Geographical Information System (GIS), the subject property is located within the Eola Hills and contains relatively steep terrain. The subject tract contains approximately 29.9% high-value soils (Class I-IV soils), (See Attachment E of the staff report), and the applicant reports that less than five percent of the subject tract is used for agricultural purposes. The tract is predominantly used for forestry purposes, and is heavily vegetated. These characteristics loosely match the above definition of lands designated Agriculture. The terrain of the subject property is not gentle, but may have similar characteristics to the low foothills of the Coast Range. The subject property does not contain a predominance of Class I-IV soils.

It is understandable how the subject property would have been designated Agriculture, prior to the creation of the Farm/Forest designation; however, the Farm/Forest designation provides a closer description to the characteristics and established uses of the subject property. As described in Section IV of the PCCP, properties that are classified as Farm/Forest have the following general characteristics:

The Farm/Forest designation applies to lands which, for the most part, lie between the relatively flat agricultural areas and the foothills of the Coast Range.

These lands are generally hilly, heavily vegetative, and have scattered areas of residential development. These lands had originally been designated Rural Lands. However, the Land Conservation and Development Commission (LCDC) did not grant a general exception to the Oregon Statewide Planning Goals, as requested by the County, for approximately 41,000-acres of Rural Lands designated properties. As a result, those properties converted to the Farm Forest Plan Designation. There are many full-time farms located in this area; however, more of the smaller part-time farms that exist in the area were created through the land division process when the area was designated Rural Lands. The Farm Forest Plan Designation recognizes those smaller properties. These areas exhibit a predominance of agricultural soils and timber lands as defined by State statutes.

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.

The Farm/Forest Zone Overlay is implemented by the Farm/Forest zone and the additional provisions of the EFU zone for land divisions and farm dwelling approvals. The Farm/Forest zone shall be applied to land where the parcelization pattern was predominately less than 80 acres as of October 12, 1988. The Farm/Forest zone overlay shall be applied to land where the parcelization pattern is greater than 80 acres located along the perimeter of the Farm Forest designation, or in large block within the Farm Forest Designation. [PCCP Section 4, Land Use Plan Designations, Farm/Forest]

As described by the applicant, and apparent in a review of the 2008 Polk County Aerial Photograph, and the contour data available in the Polk County GIS, the subject property is located along a relatively steep slope and is heavily vegetated. The applicant operates a commercial forestry operation on the subject property, lending support to this effort to protect the land for continued forestry use. The subject property also contains existing agricultural uses, and in addition, the subject property is located within the Eola-Amity Hills American Viticultural Area (AVA). AVAs mark distinctive and productive wine grape growing areas. The subject property has potential for wine grape production, and the processing of wine grapes requires a permit as a winery or commercial activity in conjunction with farm use. Based on this evidence, the subject property more appropriately fits the description of land that is designated as Farm/Forest rather than Agriculture.

Based on the above findings, the Hearings Officer and staff find 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]

- i. Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources. [Statewide Planning Goal 4, OAR 660-015-0000(4)]**
- ii. Governing bodies shall identify “forest lands” as defined by Goal 4 in the comprehensive plan. Lands inventoried as Goal 3 agricultural lands, lands for which an exception to Goal 4 is justified pursuant to ORS 197.732 and taken, and lands inside urban growth boundaries are not required to be planned and zoned as forest lands. Lands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service. [OAR 660-006-0010(1)]**
- iii. Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied. [OAR 660-006-0015(1)]**
- c. When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation. [OAR 660-006-0015(1)]**
- d. 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]**
- e. 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]**
- f. 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]**

- g. **The Farm/Forest designation applies to lands which, for the most part, lie between the relatively flat agricultural areas and the foothills of the Coast Range.**

These lands are generally hilly, heavily vegetative, and have scattered areas of residential development. These lands had originally been designated Rural Lands. However, the Land Conservation and Development Commission (LCDC) did not grant a general exception to the Oregon Statewide Planning Goals, as requested by the County, for approximately 41,000-acres of Rural Lands designated properties. As a result, those properties converted to the Farm Forest Plan Designation. There are many full-time farms located in this area; however, more of the smaller part-time farms that exist in the area were created through the land division process when the area was designated Rural Lands. The Farm Forest Plan Designation recognizes those smaller properties. These areas exhibit a predominance of agricultural soils and timber lands as defined by State statutes.

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.

The Farm/Forest Zone Overlay is implemented by the Farm/Forest zone and the additional provisions of the EFU zone for land divisions and farm dwelling approvals. The Farm/Forest zone shall be applied to land where the parcelization pattern was predominately less than 80 acres as of October 12, 1988. The Farm/Forest zone overlay shall be applied to land where the parcelization pattern is greater than 80 acres located along the perimeter of the Farm Forest designation, or in large block within the Farm Forest Designation. [PCCP Section 4].

Based on the Polk County Soil Survey, applicant argues that this land is predominately Forest Site Class III. The owner of the property Zena Forest LLC is a family owned timber company whose mission is to manage timber for both fiber production and ecological resilience. To this end, the entire property is protected from any future development by a conservation easement with a dual mandate of timber production and habitat conservation, with agriculture allowed to continue on those sites suited to and already in agriculture production.

According to Section 4 of the PCCP, the Farm/Forest designation applies to lands which, for the most part, are situated between the relatively flat agricultural areas and the foothills of the Coast Range. The intended purpose of the Farm/Forest designation is to: *“provide an opportunity for the continuance of large and small scale commercial farm and forestry operations.”*² The PCCP further states that these *“lands are generally hilly, heavily vegetative, and have scattered residential*

² Comprehensive Plan, p. 68.

development.” The subject property meets these requirements.³

The Farm/Forest designation recognizes both agriculture and forestry as appropriate resource activities. Therefore the amendment needs to be consistent with both of those sections of the PCCP.

The amendment is also consistent with the requirements of Section 2-B of the PCC regarding agricultural lands, which contains three goals:

1. **To preserve and protect agricultural land within Polk County;**
2. **To diversify agriculture within Polk County; and**
3. **To preserve and protect those resources considered essential for the continued stability of agriculture within Polk County. (PCCP Section 2)**

Applicant maintains that 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.**
- 1.4 **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. (PCCP Section 2)**

As mentioned above, the subject property is managed as a commercial forest for timber production. As is described above, the site mostly contains soils that are typically not considered high value for most types of farm crops, those soils are excellent however for growing forest tree species, particularly Oregon White Oak which thrives on the drier poorer soils of the uplands in the Willamette Valley. Based on NRCS soil surveys, the subject property has the capability to produce an average of 60 cubic feet/acre/year, or a total of 78,500 cubic feet/year in wood fiber. Based on information from the Oregon Department of Forestry’s “Land Use Planning Notes”⁴, this is more than adequate for commercial timber production.

The primary land use is commercial forestry with a portion remaining in agricultural production. In conclusion, amending the PCCP designation to Farm/Forest is consistent with the historical and current management of the land.

The application also conforms to the requirements of Section 2-C of the PCCP relating to forest lands, which 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. (PCCP Section 2)**

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. (PCCP Section 2)**

There are minimal springs and wetlands, and no year-round waterways on the subject property. The property lies within a groundwater limited area, and wells that have been dug on site are adequate for a house and garden, but no more. Because of this there is very little potential to

³ Comprehensive Plan, pp. 67-68.

⁴ www.oregon.gov/ODF/STATE_FORESTS/FRP/docs/LandUsePlanningNotes3FINAL.pdf

increase the amount of farmed land. The historical use of commercial timber production is the best way to insure that the fragile wetlands that do exist on the property are maintained.

The subject property is not in need of reforestation at this time. The forest land consists of a wide diversity of age classes in Douglas Fir, Oregon White Oak, and Western Big Leaf Maple. These stands are selectively thinned ensuring adequate crown cover and tree density, as outlined by the Oregon Forest Practices Act. Large portions of Oak Savannah were recently rehabilitated through a joint venture with US. Fish and Wildlife and Oregon Watershed Enhancement Board.

Applicant contends that the Application complies with criterion “C-1” (PCZO 115.050(A)(3)(a)).

The applicant is proposing to change the PCCP designation of the subject property from Agriculture to Farm/Forest. The Farm/Forest designation implements both the Agricultural Land and Forest Lands PCCP goals and policies. It also implements both Statewide Planning Goals 3 and 4. The subject property has been designated Agriculture in the PCCP for approximately 37 years and the Agriculture designation was acknowledged by LCDC to be consistent with the Oregon Statewide Planning Goals. The question posed in considering the applicant’s proposed PCCP amendment is whether it is consistent with the PCCP to also protect the subject property as forest land under Statewide Planning Goal 4.

PCCP Section 2, Forest Lands Policy 1.1 states in relevant part:

Polk County will provide for the protection of productive forest lands. Designated forest lands will be areas defined as one of the following:

- ii. Suitable for commercial forest use;

The applicant indicates that the subject property is suitable for commercial forest use. According to the applicant, the subject property has been primarily managed for timber production since 1985. The applicant’s forest land contains Douglas Fir, Oregon White Oak, and Western Big Leaf Maple, and the applicant’s focus is on the cultivation and processing of hardwoods.

PCCP Section 2, Forest Lands Policy 1.2 states:

Polk County shall designate forest lands on the Comprehensive Plan Map consistent with Goal 4 and Oregon Administrative Rules Chapter 660, Division 6.

As described in this criterion above, Goal 4 states that counties shall protect lands that are “suitable for commercial forest uses.” The applicant has demonstrated by managing the subject tract predominantly for forestry since 1985 that the subject property is suitable for commercial forest uses. The applicant is also seeking to further ensure the viability of their commercial forest by establishing a sawmill under CU 12-09 that would process hardwoods that are grown on the subject property. OAR 660-006-0010(1) states that “[l]ands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service.” As described in *Just v. Linn County*, LUBA No. 2009-068, dated November 9, 2009, there is no soil productivity threshold under state law or administrative rule or statute that separates commercial forest land from non-commercial forest land. However, in discussing the use of soil data in determining whether land is suitable or unsuitable for commercial forest uses, LUBA stated:

Our cases suggest that land with a productivity of less than 20 cf/ac/yr may be unsuitable for commercial forest use unless there are factors that compensate for the land’s relatively low productivity. But land in a middle range from a low of approximately 40 cf/ac/yr to a high of approximately 80 cf/ac/yr is unlikely to be unsuitable for commercial forest use unless there are additional factors that render those moderately productive soils unsuitable for commercial forest use. Rural land with a wood fiber productivity of over 80 cf/ac/yr is almost certainly suitable for commercial forest use, even if there are limiting factors. [*Just v. Linn County*, LUBA No. 2009-068, Page 11, Lines 1-8]

Based on the soil analysis presented in Attachment E of the staff report, the subject property is

capable of producing an average of 62 cubic feet of wood fiber per acre per year (cf/ac/yr). This average is based on NRCS data and includes unrated soils that in this calculation are listed as producing zero cubic feet of wood fiber per acre per year. Based on a review of the 2008 Polk County Aerial Photograph, there are trees growing on the unrated soils; therefore, the unrated soils have positive productivity, and the annual soil capability should actually be greater than 62 cubic feet of wood fiber per acre per year. The applicant indicates that the subject tract is productive for Oregon White Oak and Big Leaf Maple hardwoods, and contends that the subject property has been predominantly managed for commercial forest uses since 1985. The 2008 Polk County Aerial Photograph shows the subject property as predominantly covered in trees. Based on these factors, staff concludes that the subject property constitutes productive forest land and should be protected as such under the PCCP and Goal 4. As discussed above, the subject property meets the definition of land that should be protected under the Farm/Forest PCCP land designation. The Farm/Forest designation would be appropriate for the subject property because it is primarily used as commercial forest land but also contains some land that is used for agricultural purposes. Staff concluded that the proposed PCCP designation of Farm/Forest would protect the existing commercial forest on the subject property, and through implementation of the Farm/Forest Overlay zone, would allow for development of forestry related uses such as a permanent facility for the primary processing of forest products as requested in CU 12-09. The Farm/Forest designation, implemented by the FFO zone, would also continue to permit the spectrum of agricultural activities that are currently permitted on the subject property.

The Farm/Forest designation protects land that have been inventoried as agricultural and forest land. With respect to lands that are both agricultural land and forest land, OAR 660-006-0015 states:

- (1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied. [OAR 660-006-0015(1)]
- (2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation. [OAR 660-006-0015(1)]

OAR 660-006-0015(1) indicates that it may be appropriate to designate land as agricultural/forest lands where there are areas of intermingled agricultural and forest lands. In order to justify a mixed agricultural/forest designation where land is both agricultural and forest land, OAR 660-006-0015(1) and OAR 660-006-0057 require the applicant to demonstrate that there is a mix of agricultural and forest uses on the property, and the Comprehensive Plan must document why the agricultural/forest designation was selected. The applicant is proposing to change the PCCP map designation from Agriculture, which is designed to protect agricultural land, to Farm/Forest, which is designed to protect agricultural and forest lands.

According to the information submitted with the application, the subject property is predominantly managed for forestry purposes. The applicant indicates that 50 acres are managed for agricultural production including areas managed for grass seed and livestock grazing. The subject property is located within the Eola-Amity Hills AVA. AVAs mark distinctive and productive wine grape growing areas. Based on its location in an AVA, the subject property has potential for wine

grape production. The processing of wine grapes requires a permit as a winery or commercial activity in conjunction with farm use. Those uses implement Goal 3, and are allowed in the EFU and FFO zones, but not the TC zone, which implements Goal 4. The Farm/Forest designation, implemented by the FFO zone, would allow for the subject property to remain viable for the production of forest products, as well as retain regulations that allow an array of farm-related uses that would enhance the current and future viability of the land for agricultural production.

Based on the findings above, staff concluded that the subject property is both agricultural and forest land. The proposed Farm/Forest PCCP designation, implemented by the FFO zone, would permit uses that are consistent with Polk County's Agricultural Land and Forest Lands goals and policies in the PCCP. The proposal conforms to the intent of relevant goals and policies in the PCCP and the purpose and intent of the Farm/Forest land use designation

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)]

A PCCP amendment from Agriculture to Farm/Forest does not require a goal exception if the corresponding zone designation is Farm/Forest with a Farm/Forest Overlay.⁵ The Application must, however, still be found in compliance with the Statewide Planning Goals and related Oregon Administrative Rules. For a PCCP amendment, the Transportation Planning Rule (TPR) still needs to be considered under Goal 12-*Transportation* (OAR 660-012-0070).

The Hearings Officer finds that the Application complies with criterion "C-2" (PCZO 115.050(A)(3)(b)).

(Compliance with Statewide Planning Goals)

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

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

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.⁶ The Polk County Hearings Officer conducted the initial hearing.⁷ The Polk County Board of County Commissioners will conduct its own hearing *de novo* prior to a final decision being rendered.⁸ This goal will be 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 agencies and special district plans and actions related to land use be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268. This goal also sets forth the procedures for taking an exception when resource lands are proposed to be put into a non-resource use.

No goal exception is required in this case because the applicant is seeking the Farm/Forest Overlay Zone, which will maintain the *additional provisions of the EFU zone for land divisions*,⁹ and the land is not being put into a resource use. Polk County's land use procedures and its PCCP

⁵ The F/F Overlay maintains an 80 acre parcel minimum.

⁶ PCZO 115.030(C).

⁷ PCZO 115.030(B).

⁸ PCZO 115.030(C).

⁹ Comprehensive Plan P. 68

and implementing ordinances have been determined to be in compliance with the Statewide Planning Goals. This goal is met.

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

When Polk County adopted its PCCP in compliance with the Statewide Planning Goals and submitted it to the Department of Land Conservation and Development (DLCD), the subject tract and all of the surrounding lands had an Agriculture PCCP designation. This area is a mixture of forestry and agriculture. Depending primarily on the topography, and individual owners objectives, either forestry or agriculture qualifies as suitable land uses.

The Applicant will continue the use of the subject property for commercial forest management. The Applicant also intends to maintain 50 acres in agriculture. This represents a long-term commitment to a mixed farm and forest use. Therefore, changing the PCCP Map of the Property into a Farm/Forest designation and rezoning it to Farm/Forest with a Farm/Forest Overlay will not change the use. This goal is met.

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

The identified soil types on the subject property make it suitable for growing trees commercially, and the property is already well stocked with timber. The addition of a small sawmill on the property will serve to maintain, enhance and promote the use of the property as a commercial forest. 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.*

Currently none of the subject property is designated as open space, cultural, or historic by the PCCP, and the springs and wetlands on the subject property are being maintained and protected by ensuring adequate forest cover. The conservation easement which governs all land management on the subject property specifically stipulates that wetlands and riparian areas are to be protected above and beyond the rules set forth in the Oregon Forest Practices Act. The proposed mapping changes are not in conflict with Goal 5. This goal is met.

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

Forests are regulated by the Oregon Department of Forestry in order to ensure that air, water, and land resource qualities are maintained. The applicant will continue to follow the Oregon Forest Practices Act in terms of managing forests, and preserving air and water quality. This goal is met.

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

Polk County does not have an adopted landslide hazard map. However, steep slopes do exist on portions of the subject property, which range from nearly level up to 50 percent. The applicant maintains tree cover on all steep slopes for among other things to maintain erosion control. 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.*

The wood products industry has always been a major player in Polk County's economy. Over the last decade however, demand for the traditional raw materials (construction lumber) has declined. To fill this void, wood products producers are looking more and more to niche and specialty markets that are remaining strong. There is significant demand for locally produced

hardwoods here in Oregon that is currently underserved. The applicant proposes to operate a small hardwood sawmill and sell local hardwood products to markets in the Willamette Valley. This would provide for both more jobs, as well as more economic development in Polk County. This goal is met.

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

There is currently one authorized dwelling, and the applicant is not seeking any additional dwellings. Therefore, this goal does not apply.

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

The existing dwelling is connected to a domestic well, and a septic tank and drain field. There is no anticipated increase in water needs in the future.

Oak Grove Road provides access to the subject property. That road is classified by Polk County as a minor collector. Two separate private access roads serve the residence and surrounding forest and farmland. With the addition of the small onsite sawmill operation, logs will be processed on site and transported out as lumber, thus there will be less log truck traffic on Oak Grove Rd. and little change in total traffic otherwise.

The subject property is in the Amity Rural Fire Protection District, and in addition the property owner has put additional firefighting measures in place with fire ponds, and private fire fighting equipment onsite. Law enforcement is provided by the Polk County Sheriff Department. The applicant does not need any public facilities or services beyond what is currently available. This goal is met.

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

Goal 12 is implemented by the Transportation Planning Rule (TPR) and the Polk County Transportation System Plan (TSP), which has been approved by the State as being in compliance with the TPR (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 PCCP 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.¹⁰

Those provisions are implemented by the Polk County Transportation System Plan, which allows PCCP and zone map amendments that may generate trips up to a planned capacity of the transportation system.¹¹ In determining that capacity, Polk County will consider road function, classification, road capacity, and existing and projected traffic volumes, as criteria for PCCP amendments.

As stated above, Oak Grove Road is classified by Polk County as a minor collector with current average traffic volume of 640 trips per day. The Polk County TSP defines a minor collector as a roadway intended to “*collect traffic from local road and bring all developed areas within reasonable distance of a collector road; and provide service to the remaining smaller communities; and link the locally important traffic generators with their rural hinterland.*”¹²

In reviewing the accident history of that road, there were 14 crashes reported from 2003-2007 with no fatalities.¹³ For the entire Polk County road system, a total of 674 crashes were reported

¹⁰ OAR 660-012-0060(1).

¹¹ Polk County TSP, p. 3-7.

¹² Polk County TSP, p. 5-2.

¹³ Polk County TSP, p. 9-7

during this same period of time. This number of crashes appears to be fairly typical of this type of road in Polk County with similar traffic volumes. The TSP does not identify any transportation deficiencies for this road and no future needed road improvements are identified. There will be no additional traffic on Oak Grove Rd. due to the proposed PCCP changes.

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

Oak Grove Road is operating under capacity.¹⁴ According to the recent traffic counts for this section of Oak Grove Road, the volume to capacity ratio is just 0.41. The proposed plan change and small sawmill operation will not significantly affect this ratio.

Goal 3 of the TSP, policy 3.2 states: "Polk County recognizes the importance of resource related uses such as agriculture and forestry to the local economy and the need to maintain a transportation system that provides opportunities for the harvesting and marketing of agricultural and forest products."¹⁵

Oak Grove Rd. is more than adequate for the existing and anticipated future needs of the forest and small sawmill operation. There is an estimated addition of 5 average daily trips resulting from the proposed small sawmill operation and this would pose no significant impact on the traffic patterns of Oak Grove Rd.

GOAL 13- Energy Conservation: To conserve energy.

The proposed small sawmill would utilize existing electrical infrastructure for the energy efficient operation of sawmill machinery. This goal is met.

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

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

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

Relevant Oregon Administrative Rule 660-006-0057: Rezoning Land to an Agriculture/Forest Zone. 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.

The subject property contains a current mix of both forest and agriculture uses, and the potential exists for increased agriculture production throughout the subject property. Currently there are 50 acres in agricultural production, consisting of either grass seed, or grazing. The subject property has potential for increased hay production, livestock grazing, and value added animal products. The subject property contains such a mix of both forest and agriculture, that neither Goal 3 nor Goal 4 can apply alone.

The Applicant stated it has demonstrated compliance with all Statewide Planning Goals, as required by the PCZO, Oregon Revised Statutes, and Oregon Administrative Rules in application of

¹⁴ October 5, 2010 email from Fred Lowe, Polk County.

¹⁵ Polk County TSP, p. 3-6.

the PCCP and Zone Map amendment.

In summary, the applicant is proposing a PCCP Map amendment from Agriculture to Farm/Forest and a Zoning Map amendment from EFU to FFO. These amendments would allow for the approval of conditional use permit application CU 12-09 for a permanent facility for the primary processing of forest products. The proposal would change the PCCP designation from Agriculture, which implements Goal 3, to Farm/Forest, which implements both Goals 3 and 4. The subject property is currently zoned EFU, which has an 80-acre minimum parcel size, and the applicant is proposing the FFO zone which also has an 80-acre minimum parcel size. Consequently, the applicant's proposal does not require an exception to any statewide planning goals.

As described throughout this staff report, the subject property is currently designated Agriculture and protected under Goal 3. The subject property is currently managed for forestry purposes and the applicant would like to gain the option to establish a sawmill on the subject property. The proposed Farm/Forest designation would implement both Goals 3 and 4. The FFO zone, which implements the Farm/Forest Plan designation and Goals 3 and 4, would allow for commercial forestry uses and farm uses on the subject property. Those uses would allow the applicant increased flexibility to use the subject property for the current primary use of the property as a commercial forest, and on-site forest product processing if CU 12-09 is approved. The FFO zone also permits commercial farm use and certain agriculturally related uses through an application process.

The applicant has addressed the applicable Statewide Planning Goals, and the Hearings Officer and staff agree with the applicant's conclusions. With respect to Goal 12, the objective of Goal 12 is to provide and encourage a safe, convenient and economic transportation system. Goal 12 is implemented by OAR 660-0012. OAR 660-012-0060(1) states:

If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule...

Staff and the Hearings Officer do not believe that a PCCP amendment from Agriculture to Farm/Forest, and the associated Zoning Map amendment from EFU to FFO would result in a significant change to a transportation facility as defined under OAR 660-012-0060(1). The subject property is accessed from Oak Grove Road, which in the location abutting the subject property, is a minor collector identified on Figure 3 of the *Polk County Transportation Systems Plan (TSP)*. If the proposed PCCP amendment and Zoning Map amendment are approved, the applicant would be able to establish the uses permitted in the FFO zone. The FFO zone permits those uses that are allowed in both the EFU and TC zones. The EFU zone is currently applied to the subject property. The uses that would be added to the currently allowed uses in the EFU zone by applying the FFO zone include an array of uses associated with forest management. Of these, some have the potential to increase the level of traffic that enters and exits the property. These include a permanent facility for the primary processing of forest products. Staff does not believe that the forestry uses added by the FFO zone would attract any more traffic than the uses that are already allowed in the EFU zone. The EFU zone permits uses such as a farm stand, winery, or commercial activity in conjunction with farm use. If established, those uses could attract traffic associated with the retail sales of farm products and processed farm products, such as wine. The Polk County Public Works Department indicated that they did not have concern about the proposed applications, and did not request a traffic impact analysis. Based on these factors, staff does not believe that applying the Farm/Forest PCCP designation and the Farm/Forest Overlay zone to the subject property would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant proposes a new access location to Oak Grove Road, or another county road, an access permit from the Polk County Public Works Department may be required.

As discussed above, the applicant has addressed all applicable Oregon Statewide Planning Goals. No goal exception is necessary in order to approve these applications. The Hearings Officer finds that the application complies with this criterion.

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

The subject property is not located within an urban growth boundary or within an incorporated city. As a result, no intergovernmental agreements are applicable to this application. This criterion is not applicable to the proposed amendment.

(Zone Change)

- A. A zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. [PCZO 111.140]**

The authorization for Zoning Map amendment is provided under PCZO 111.275. A zone change is subject to recommendation by the Hearings Officer after holding a public hearing pursuant to PCZO 111.190 and decision by the Polk County Board of Commissioners after holding a public hearing pursuant to PCZO 111.200. Planning Division staff reviewed the proposed zone change, and prepared a report and recommendation for the Hearings Officer. The Hearings Officer must make 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]

The Farm/Forest zone is the corresponding zone to the Farm/Forest PCCP designation. The purpose of this zone is to provide *“for the full range of agricultural and forest uses while providing for the maximum property tax benefits that are available.”*¹⁶ Not only is the proposed zone consistent with the land use activities on the subject property, but that designation will also allow the applicant to develop a small sawmill operation. The applicant views the sawmill as an integral component to the timber management operation at this location.

¹⁶ PCZO 138.010.

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

Applicant believes that a change in the PCCP from Agriculture to Farm Forest would automatically necessitate this proposed zone change from Exclusive Farm Use (EFU) to Farm Forest Overlay (FFO). The application complies with criterion “a” (PCZO 111.275 (A)).

As described in Section 4 of the PCCP, the Farm/Forest 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 EFU, which has an 80-acre minimum parcel size. The EFU zone and FFO zone have the same minimum parcel size, so zoning the subject property FFO would not allow for additional parcel density beyond what is currently permitted. The uses in the FFO zone have already been determined to be consistent with the Farm/Forest PCCP designation, and the current management of the subject property for forestry and agricultural purposes demonstrates that the subject property is suited to be used consistently with the Farm/Forest 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.

The Farm/Forest 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.”¹⁷

While a majority of the subject property will be forest land, a portion will be maintained as agricultural land. The Farm/Forest zone allows for both types of land management activities. Hence, applicant argues, the Application complies with criterion “b” (PCZO 111.275 (B)).

The applicant has proposed a zone change from EFU to FFO. The proposed FFO zone allows

¹⁷ PCZO 138.010.

“farm use” and “use and management of forest lands” as outright permitted uses. The subject property is currently managed for forestry, with some interspersed agricultural use. Those uses would remain outright permitted if the proposed zone change is approved. The subject tract contains approximately 1,273 acres. According to the applicant approximately 1,218 acres of the subject property are in timber production, 50 acres are in agricultural crops or pasture, and 5 acres are used as a home-site and proposed for sawmill development. The FF zone is designed to “provide for the full range of agricultural and forest uses for such lands.” As discussed in this report, the subject property is currently zoned for agricultural use, contains existing agricultural uses, and has vineyard potential with its location in the Eola-Amity Hills AVA. The subject property contains an actively managed commercial forest. It would therefore be appropriate for the subject property to have available the “full range of agricultural and forest uses” that are permitted under Goals 3 and 4.

The subject property is bordered to the north by approximately 2650 acres of contiguous land that is designated Farm/Forest on the PCCP map and zoned either FF or FFO. The applicant’s proposal would create a logical extension of that block of FF/FFO zoning to the south.

In consideration of the above factors, the Hearings Officer and staff concur in finding that the subject property complies with the purpose statement of the FF and FFO zone.

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

The adjacent area is comprised of a mixture of farming and forestry activities. As previously noted all surrounding lands are designated as agricultural, farm forest, or public land on the PCCP Map and as Exclusive Farm Use, Farm Forest, or Public on Polk County’s zoning map. The subject property is located in the Eola Hills. The neighboring properties to the west are on flat agricultural land and are managed for crop production. The properties to the north are in agriculture, forest land, or vineyards. The properties to the east are in agriculture, forestland, or for public use in the case of the Oregon 4-H Center which shares one of the longer common boundaries with the subject property. Property to the south is in agriculture, primarily Christmas trees. The uses permitted in the Farm/Forest zone are consistent with this type of rural land use pattern. Forestry in particular imposes very little if at all on neighboring properties. Therefore, the proposed designation will not adversely impact allowed uses on adjacent lands.

The Hearings Officer finds that the application complies with criterion “c” (PCZO 111.275(C)).

The applicant is proposing a zone change of the subject property from EFU to FFO. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. Based on a review of the 2008 Polk County aerial photograph, contiguous properties are used for a mix of agricultural and forest uses. A property to the east is owned by the Oregon 4-H Foundation and contains a youth camp. Neighboring properties to the north are zoned FF, properties to the west and south are zoned EFU, and properties to the east are zoned Public and Private Educational Facilities (PE) and EFU.

The primary changes to the uses permitted on the subject property that would result if this application is approved is that the FFO zone permits through an application process several uses that support commercial forestry operations that are not allowed in the EFU zone. These uses include a permanent facility for the primary processing of forest products, logging equipment and repair facilities, and log scaling and weigh stations. The applicant has applied to establish a sawmill under the standards for a permanent facility for the primary processing of forest products on the subject property. That application, CU 12-09, is contingent on the approval of the proposed PCCP Map amendment and zone change. Based on a review of the Polk County zoning map, all properties contiguous to the subject property, except one, are zoned EFU or FF. The uses that would be permitted on the subject property through implementation of the FFO zone are similar in nature to the existing uses permitted in the EFU zone. Forest processing facilities, for example, have the potential to create dust, noise, and traffic impacts; however, staff anticipates that these would be comparable to the negative externalities created by a farm product processing facility allowed in the

EFU zone. In addition, the majority of the new uses that could be authorized in the FFO zone require review and approval through a conditional use application process. One criterion for the conditional use permit requires that an applicant demonstrate that the new use will not “force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.” This criterion requires an applicant to demonstrate how their specific proposal would be designed to minimize impacts on surrounding farm and forest uses. The conditional use review process may result in conditions that are intended to minimize off-site impacts of the proposed operation. Staff has not found any evidence to suggest that zoning the property FFO would have a negative affect on the Oregon 4-H Foundation property zoned PE to the east.

In total, the uses permitted in the FFO zone would not significantly adversely affect allowed uses on adjacent lands because the FFO zone allows the uses in the EFU zone, which are the same as those uses allowed on neighboring properties. The FFO zone allows the uses in the TC zone, which include an array of resource uses that would have similar offsite impacts as neighboring EFU zoned properties. Based on the information provided by the applicant and the staff conclusions, the Hearings Officer finds that the application complies with this criterion.

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

The Application will not create a greater demand on any public facilities, services, or the transportation network since the proposed activities will use no additional water, and no increase in police or fire infrastructure services.¹⁸ The dwelling structure on the property is served by a domestic well and Amity Rural Fire Protection District. Funding for district services are collected through tax assessments. The Polk County Sheriff’s Department provides emergency services to the Property. Funding for those services is provided through property taxes paid to Polk County.

In summary, no additional dwellings are proposed. The sawmill is expected to eventually employ up to two persons. Existing toilet and domestic water facilities are adequate. The applicant is proposing to change the zoning of the subject property from EFU 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 and industrial development is largely restricted to activities in conjunction with farm use on the subject property. The need for public facilities by the uses permitted in the FFO zone is substantially the same as the uses in the EFU zone. The minimum parcel size is 80 acres in both the EFU and FFO zone, so this zone change would not result in higher parcel density on the subject property.

The subject property is accessed from Oak Grove Road, which in the location abutting the subject property, is a minor collector identified on Figure 3 of the TSP. If the proposed PCCP amendment and zoning map amendment are approved, the applicant would be able to establish the uses permitted in the FFO zone. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. The uses that would be added to the currently allowed uses in the EFU zone by applying the FFO zone include uses that have the potential to attract traffic to the property. However, the uses that are currently permitted on the subject property 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 or through the processing of farm products, such as wine. The TC zone arguably permits fewer high traffic uses, but it does permit a permanent forest product processing facility through a conditional use application process. Such a use depending on the size of the operation could also produce high levels of traffic. The Public Works Department indicated that they did not have concern about the proposed applications, and did not request a traffic impact analysis. Based on these factors, staff does not believe that applying the Farm/Forest PCCP designation and the Farm/Forest Overlay zone to the subject property would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant

¹⁸ See Exhibit A, p.p. 3-4.

proposes a new access location to Oak Grove Road, or another County road, an access permit from the Polk County Public Works Department would be required.

The subject property is rural in nature, and regardless of whether the property is zoned EFU or FFO, use of the property may be limited by water availability and the suitability of the soils to provide on-site wastewater disposal. A portion of the subject property is located in the area served by the Perrydale Domestic Water Cooperation; however, that is no guarantee of water availability. 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 subject property is located in the Southwest Polk RFPD, Amity RFPD, Spring Valley RFPD, and the Polk County Sheriff Department provides emergency services to 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. 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 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 applicant would be required to obtain all necessary local, state, and federal permits for the sawmill and any other use that is established on the subject property.

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

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

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

A PCCP change to Farm/Forest with a Farm/Forest Overlay zone is consistent with the density and pattern of development in this area. While the immediate surrounding properties are still predominately zoned EFU in reality the land usage in this area is a mixture of varying types of resource based uses, with scattered rural residences, predominately along Oak Grove Road.

As discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used for a mix of agricultural and forestry purposes. The FFO zone allows for an array of uses. The FFO zone allows both the uses permitted in the current EFU zone and the TC zone. Neighboring properties to the north are zoned FF, so if these applications are approved, the property could be used for the same uses as those properties. Properties to the west, south, and east are zoned EFU. One property to the east is zoned PE. The externalities created by the FFO zone, which permits resource based activities, would be substantially the same as the EFU zone, and staff has not identified any new potential conflicts that would arise by zoning the property FFO. Due to the similar nature of the uses permitted in the FFO zone and the EFU zone, staff finds that the proposed FFO zoning would be compatible with surrounding land uses located on those EFU zoned properties. The FFO zone has an 80-acre minimum parcel size, which is the same as the EFU zone. The proposed zoning would be consistent with the density and pattern of development in the area.

The subject property has been managed predominantly for forestry purposes since 1985. In 2006 the Eola-Amity Hills AVA was created and includes the subject property. The subject property contains a mixture of farming and forestry uses, and maintains potential for wine grape production. These factors support a zone change to the FFO zone.

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)]

As has already been stated above, this application complies with relevant Oregon Revised Statutes and the applicable Statewide Planning Goals and Oregon Administrative Rules, including the Transportation Planning Rule. No goal exception is required because the Farm Forest Overlay zone will maintain the 80-acre minimum parcel size.

The applicant is proposing a zone change from a resource zone (EFU) that implements Goal 3 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 forestry and farm uses to be continued and developed on the subject property. As discussed in the findings 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(G)]

The subject property has frontage along Oak Grove Road, a minor collector, as designated in the Polk County Transportation Systems Plan, Figure 3. The applicant is proposing a PCCP amendment and Zoning Map amendment from one resource zone to another. The applicant indicated that their proposed sawmill would generate approximately five vehicle trips per day if these applications are approved. The Public Works Department indicated that they did not have concern about the proposed applications, and did not request a traffic impact analysis.

(Conditional Use)

A. Permanent Facility for the Primary Processing of Forest Products [OAR 660-006-0025(4)(a)], subject to compliance with Sections 138.100(A) and (B). [PCZO 138.060(A)]

The request is for a Permanent Facility for the Primary Processing of Forest Products. This small (less than 50,000 bf/year) sawmill facility would process logs into lumber. The facility would include a log yard, a collection of primary breakdown machines; sawmill, resaw, edger, planer, and a small (<5,000 bf) dry kiln. This facility would utilize an existing agricultural building as well as 2 open air sheds for lumber storage.

B. GENERAL REVIEW STANDARDS [OAR 660-033-0130(5) and OAR 660-006-0025(5)]. To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

- 1. The 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)

As is already stated above, the proposed use would only help to support the existing use of commercial timber production. By being able to process logs onsite, a greater return on investment is available to the owners by selling lumber instead of logs, as well as significant increases in efficiency, by being able to process logs onsite.

In addition, this proposed use would not interfere with either forest, or farming practices on neighboring lands. The proposed sawmill is located completely within the subject property. It is over one-third of a mile (1,500') to the nearest neighboring property. There would be no chance of any noise, dust, or other potentially adverse condition from the sawmill operation to affect a neighboring property. There would be a minor change in traffic on Oak Grove Road that serves the subject property. Fewer log trucks would be using the road, as a greater portion of the logs harvested in the forest would be processed onsite. In turn there would be a slight increase (5 trips per day) in other vehicle traffic on Oak Grove Road. This would consist of the commuting of employees, as well as small trucks hauling lumber. Since Oak Grove Rd. is currently operating well under capacity (volume to capacity ratio of 0.41), this would pose no significant adverse affect on neighboring farming and forestry practices.

The applicant is proposing to operate a permanent facility for the primary processing of forest products – a sawmill. According to the applicant, the sawmill would process less than 50,000 board feet per year. A board foot is a unit of volume for measuring lumber that is one foot in length by one foot in width by one inch thick. The sawmill would utilize an existing agricultural structure and two additional accessory structures. As described by the applicant, aspects of the timber processing would occur both indoors and outdoors.

Staff concurs with the conclusions by the applicant. Based on the plot plan submitted with the application, Attachment B of the staff report. The proposed sawmill would be located approximately 1200 feet from the neighboring property to the west, which is the closest neighbor. The subject tract has frontage along Oak Grove Road, and the applicant anticipates a small increase of five vehicle trips per day to Oak Grove Road. The applicant does anticipate that log truck traffic would decline as a result of on-site processing. Based on the proposal submitted by the applicant, the proposed use would not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

Based on the evidence submitted in the record, the applicant's proposal would result in only a minor increase in traffic to the property. The applicant indicates that the daily number of vehicle trips would increase by approximately five vehicle trips. This number of vehicle trips is consistent with a typical property managed for resource purposes. As a general condition of approval, staff recommended that a condition of approval require that the applicant obtain all necessary access permits needed to access the subject property. A new or amended access permit may be required from the Polk County Public Works Department.

PCZO Chapter 112 contains development standards that would apply to the proposed use with respect to parking areas, loading areas, and structural setbacks. Those development standards would assist in minimizing the offsite impacts of the proposed sawmill. As required by PCZO Chapter 112, the applicant shall maintain off-street automobile parking areas and off-street loading areas to serve the uses present on the subject property. PCZO 112.250(DD) provides parking standards for manufacturing establishments. A manufacturing establishment that is smaller than 50,000 square feet must provide one parking space per each 5,000 square feet or one space per employee, whichever is greater. PCZO 112.260(B)(1) requires that one loading space of 12 feet wide, 30 feet long and 14 feet high shall be provided for the first 2,000 square feet of floor area, and one additional loading space for each additional 40,000 square feet of floor area or any portion thereof. Parking and loading areas shall be surfaced in gravel, asphalt or concrete, as required by PCZO 111.270(B). The property owner shall provide sufficient on-site parking and meet all other applicable parking standards set forth in PCZO Chapter 112. The applicant shall provide additional parking or loading spaces as needed. As a condition of approval, the applicant would be required to meet the standards for parking prior to the operation of the proposed sawmill.

The applicant would also be required to comply with the setback standards of the FFO zone for all buildings and structures. Those setbacks are listed in PCZO 112.430(B) and require a 30-foot front yard setback and a 20-foot side and rear yard setback.

Staff recommended a condition of approval that requires the proposed sawmill to be located substantially in the location proposed in the application (Attachment B of the staff report). In addition, the traffic impacts associated with the sawmill that were projected by the applicant was for a “small (less than 50,000 bf/year) sawmill facility.” Staff recommended a condition of approval that limits the lumber production volume of the sawmill to 50,000 board feet per year. This would help to ensure that the offsite impacts of the sawmill are consistent with what was reviewed in this application. With that condition, if the applicant would like to produce at higher levels at some point in the future, the applicant would be required to obtain a new conditional use authorization.

With those conditions, the Hearings Officer finds that the application complies with this criterion.

2. The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; [PCZO 138.100(B)]

The fire risk is quite low for the addition of the proposed small sawmill operation, in part due to the fact that machinery would almost exclusively be run on electricity, thereby eliminating the risk of sparks from internal combustion engine equipment. The applicant has adequate private firefighting equipment, and extensive wildland firefighter training in order to deal with the unlikely event of a fire. The property contains 4 year-round ponds located in each quadrant of the property with vehicle access for firefighting purposes. In addition there is a 20,000-gallon water reservoir at the house and shop, located directly adjacent to the proposed sawmill facility. All of these water sources are accessible and readily available for firefighting needs.

In summary, the applicant is proposing to establish a sawmill within a large forest tract that is owned and managed by the applicant. The applicant clearly has a financial incentive to operate their mill and forestry practices in order to minimize loss from wildfire. The applicant has listed best management practices that would be employed in order to protect the facility and surrounding area from fire. The applicant indicates that a 20,000-gallon water reservoir is located in proximity to the proposed sawmill location and would be available for fire suppression. As proposed in the application, staff recommends that condition of approval require the applicant to maintain a 20,000-gallon water reservoir that is accessible for fire protection of the proposed sawmill facility.

OAR 660-006-0035(3) requires a minimum of 30-foot primary fuel break and 100-foot secondary fuel break around all new buildings and structures established in the FFO zone. See Attachment G of the staff report. A condition of approval that requires these fuel breaks to be established around all buildings and structures used by the sawmill would act to reduce the possibility of a fire generated by the sawmill to spread to the surrounding forest. In order to ensure that fire fighting personnel can reach the sawmill and that vehicles have adequate space to turn around and pass each other on the private road that accesses the sawmill, staff recommended that a condition of approval require that the road that accesses the sawmill be built to the “Polk County Standards for Private Roads Serving Dwellings in Forest Zones.” See Attachment H of the staff report. The applicant shall comply with all other applicable sections of PCZO Sections 138.100 and 138.120.

The proposed sawmill would be located within the Amity Rural Fire Protection District (RFPD). Amity RFPD was notified of this proposal, and as of the writing of this order had not provide written comments.

With the above-mentioned conditions of approval, staff and the Hearings Officer concur in find that the application complies with this criterion.

C. FINDINGS OF THE HEARINGS OFFICER OR PLANNING DIRECTOR. Before granting a conditional use, the Hearings Officer or Planning Director shall determine:

- 1. That he or she has the power to grant the conditional use. [PCZO 119.070(A)]**
- 2. That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone. [PCZO 119.070(B)]**

- a. PURPOSE 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. [PCZO 138.010]

As stated above, the Hearings Officer has authority to grant the application.

As stated in PCZO 138.010, the Farm/Forest Zone is meant to allow a myriad of different uses related to both agricultural and forestry, so long as these uses are not adverse to accepted farm and forestry practices. In this case, a small sawmill operation would not be adverse to the accepted and long standing history of commercial forestry use on the subject property. The sawmill occupies only one-tenth of one percent of the property. Access to the sawmill is on an established private gravel forest road, already used by log trucks and heavy machinery.

In addition to not adversely affecting the established forestry practices on the subject property, this sawmill would help to sustain and augment the existing commercial forestry operation. The ability to add value to these forest products, by processing logs onsite, will increase the revenue and long term financial stability of the commercial forestry operation. This sawmill will focus on processing hardwoods, primarily Oregon White Oak and Big Leaf Maple. These two species are undervalued in the current timber industry. By increasing the value of the species, the sawmill, will help diversify and strengthen the forestry operation on the subject property.

The purpose and intent of the Farm/Forest Overlay zone is the same as the Farm/Forest Zone. As stated in PCZO 138.010, “[t]he 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.” The proposed sawmill would support an existing forestry operation, and allow that forestry operation to derive greater economic benefit from processing timber and selling lumber. The proposed sawmill would be relatively small, and be located in an existing, cleared opening in the forest.

Staff and the Hearings Officer concur in finding that the proposed sawmill would be consistent with the purpose and intent of the Farm/Forest Overlay Zoning District.

3. **That such conditional use, as described by the applicant, complies with any specific provisions for such a use as provided by the zone or by Section 119.150.** [PCZO 119.070(C)]

There are no special provisions for a permanent facility for the primary processing of forest products identified in PCZO 119.150. The applicable review and decision criteria are listed above.

4. **That the imposition of conditions is deemed necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood.** [PCZO 119.070(D)]

If this application is approved, staff recommended the following conditions of approval in order to protect the public health, safety and welfare of those working and residing in the area. As stated above, the property owner shall provide sufficient on-site parking as required by PCZO Chapter 112. The applicant shall provide additional parking or loading spaces as needed.

The applicant indicates that the proposed sawmill would utilize an existing agricultural building and two, open-air sheds. Based on the information submitted by the Polk County Building Division, staff does not have records of permits having been issued for an accessory structure located in the proposed sawmill location. As such, staff recommends a condition of approval requiring that the applicant obtain all necessary building permits for the structures that would be used for the proposed sawmill.

Prior to establishing the sawmill on the subject property, the property owner shall obtain all necessary local, state, and federal permits. These permits may include, but are not limited to building, electrical, and plumbing permits from the Polk County Building Division; septic construction permits from the Polk County Environmental Health Division, and a new or amended access permit from the Polk County Public Works Department. The property owner shall provide a copy of all required permits and/or licenses to the Polk County Planning Division for inclusion in the record for CU 12-09.

The Hearings Officer, Planning Director, or Board of Commissioners may rescind any conditional use permit granted under the conditional use ordinance if it is ascertained that the application contains any false statements. In case of such rescission, the matter may be referred to County Counsel for an opinion. In such case, it shall be unlawful for any person to exercise any right granted by the Hearings Officer, Planning Director, or the Board of Commissioners pursuant to such application [PCZO 119.140].

PCZO 119.100 states that discontinuance of the exercise of any right heretofore or hereafter authorized for any conditional use for a continuous period of six months shall be deemed an abandonment of such conditional use.

With the above mentioned conditions of approval, staff and the Hearings Officer concur in finding that the application complies with this criterion.

D. All new dwellings and structures authorized under Sections 138.080(B) and 138.090(B)(1) are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a the building site which:

1. **Has the least impact on nearby or adjacent lands zoned for forest or agricultural use;** [PCZO 138.110(A)(1)]
2. **Ensures that forest operations and accepted farming practices will not be curtailed or impeded;** [PCZO 138.110(A)(2)]
3. **Minimizes the amount of forest lands used for the building sites, road access**

- and service corridors; and [PCZO 138.110(A)(3)]
4. **Consistent with the provisions of Section 138.120 minimizes the risk associated with wildfire.** [PCZO 138.110(A)(4)]
 5. **Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.** [PCZO 138.110(A)(5)]
- E. The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.** [PCZO 138.110(B)]
- F. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.** [PCZO 138.120(A)]
- G. Road access to the structure shall meet the County road design standards.** [PCZO 138.120(B)]
- H. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.** [PCZO 138.120(E)]
- I. The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.** [PCZO 138.120(F)]
- J. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry [See Attachment G].** [OAR 660-006-0035(3)].

This proposed use must also comply with **PCZO 138.110. GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES.** There are no new dwellings proposed in conjunction with this conditional use application. The only additional structures proposed would be two open air sheds consisting of a roof and no walls for the storage of lumber. In addition, an existing agricultural building would house a planer and be used for additional lumber storage. All of these buildings are located in an existing clearing on a flat hilltop with existing road access. This location is served by a domestic well, which is completely adequate for the small amount of water that the sawmill operation would require.

This use must also comply with **PCZO 138.120. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES.** As stated above, there is a reservoir of 20,000 gallons onsite with access for firefighting and pumping equipment. Existing firefighting equipment

includes a brush rig/water wagon for forest fire fighting. This vehicle is stocked with hand tools and fire extinguishers.

All of the existing and proposed structures have adequate primary and secondary fire breaks surrounding them that meet the above standards. The proposed sawmill is located in the Amity RFPD. Both the Rickreall RFPD, and Spring Valley RFPD serve other portions of the subject property. The property owners maintain good relations with all three protection districts, and is currently in the process of planning a training exercise with the Amity RFPD, in order to familiarize the department with both the private forest road system as well as the ponds and reservoirs located throughout the property.

In summary, the applicant is proposing to establish a permanent sawmill that would utilize an existing agricultural building and two open air sheds. Based on the statement by the applicant and a review of the 2008 Polk County aerial photograph, the sawmill would be located on an existing clearing and use existing road access. OAR 660-006-0035(3) requires the applicant to:

...maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.

Those standards require a minimum 30-foot primary safety zone (fuel break) and an additional secondary fuel break of at least 100 feet in all directions around the primary fuel break. See Attachment G of the staff report. The primary and secondary fuel break distances may need to be increase if the structure(s) is located on a slope according to the standards listed in Attachment G of the staff report. As stated by the Oregon Department of Forestry, the goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. The secondary fuel break is intended to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. The fire break standards in OAR 660-006-0035(3) are more restrictive than PCZO 138.120(C) and (D); therefore, staff must apply the OAR. The proposed mill site would be setback in excess of 1100 feet from the nearest property line, so the applicant would be able to manage the primary and secondary fuel break surrounding the proposed sawmill location. The proposed location would be a substantial distance from the nearest neighbor, and staff has not found reason to believe that it would have any significant off-site impacts to surrounding properties managed for forestry and/or agricultural purposes.

The proposed sawmill would be located adjacent to a dwelling with the address of 4550 North Oak Grove Road, Rickreall, OR. With respect to PCZO 138.120(F), staff recommends that a condition of approval require that the driveway to the sawmill be marked as described in PCZO 138.120(F).

Staff recommended that a condition of approval require that the proposed sawmill be located substantially in the location proposed by the applicant and depicted on the plot plan (See Attachment B of the staff report). In addition, the above cited requirements of PCZO 138.110(B) and PCZO 138.120(A), (B), and (E) should be listed as conditions of approval. As required by OAR 660-006-0035(3), the applicant should be required to construct a 30-foot minimum primary fuel break and an additional 100-foot minimum secondary fuel break as described in the "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry. See Attachment G of the staff report.

With these conditions of approval, staff and the Hearings Officer find that the application complies with this criterion.

CONCLUSION AND RECOMMENDATION

Based on the information submitted into the record, and the findings presented above, staff and the Hearings Officer recommend that the Board of Commissioners approve applications PA 11-

01, ZC 11-02, and accept the Hearings Officer's approval of CU 12-09. Future development on the subject property would be subject to the use and development standards listed in the PCZO. These include the standards for the Farm/Forest Overlay zone listed in PCZO Chapter 138.

(Condition of Approval for PA 11-01 and ZC 11-02)

1. Applications Plan Amendment PA 11-02 and Zone Change ZC 11-02 were evaluated concurrently, and approval of each application shall be dependent upon approval of the other. Therefore; both applications must become effective in order to implement this approval.

(Conditions of Approval for CU 12-09)

1. Approval of CU 12-09 shall be dependent on approval of PA 11-01 and ZC 11-02.
2. The proposed permanent facility for the primary processing of forest products (sawmill) shall be located substantially in the location proposed on the applicant's plot plan included as Attachment B of the staff report.
3. The proposed sawmill shall be limited in lumber production volume to 50,000 board feet per year.
4. All buildings and structures used by the sawmill shall comply with the setback standards of the FFO zone listed in PCZO 112.430(B).
5. The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. [PCZO 138.110(B)]
6. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. [PCZO 138.120(A)]
7. Road access to the structure shall meet the County road design standards (Attachment H of the staff report). [PCZO 138.120(B)]
8. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney. [PCZO 138.120(E)]
9. The applicant shall display their address number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs. [PCZO 138.120(F)]
10. The property owner shall establish primary and secondary fuel breaks around all buildings and structures used by the sawmill as described in the "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry included as Attachment G to the staff report. [OAR 660-006-0035(3)]
11. Prior to operating the sawmill on the subject property, the property owner shall obtain all necessary local, state, and federal permits. These permits may include, but are not limited to building, electrical, and plumbing permits from the Polk County Building Division; septic construction permits from the Polk County Environmental Health Division; and a new or amended access permit from the Polk County Public Works Department. The property owner shall provide a copy of all required permits and/or licenses to the Polk County Planning Division

for inclusion in the record for CU 12-09.

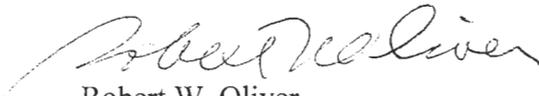
12. Off-street automobile parking areas and off-street loading areas shall be provided and maintained as required by PCZO 112.250 through 112.270. The applicant shall provide additional parking and/or loading spaces as needed.
13. Discontinuance of the sawmill for a continuous period of six months shall be deemed an abandonment of such conditional use. This conditional use authorization would then become null and void.

ORDER; EFFECTIVE DATE; APPEAL

In view of the findings and conclusions set out above, and subject to the condition of approval stated above, application 12-09 for a conditional use on the subject property hereby is APPROVED. However, this approval does not take effect until the effective date of the final local decision, and all appeals of such decisions, approving applications PA 11-01 and ZC 11-02.

This order regarding CU 12-09 may be appealed in the manner provided by law and ordinance. **TIME IS OF THE ESSENCE IN FILING SUCH AN APPEAL!** The Planning Division staff cannot assist in preparation of an appeal, but will provide information on how such an appeal may be made.

Dallas, Oregon, December 10th, 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 In the matter of Plan Amendment PA 11-01 and)
9 Zone Change ZC 11-02 that would authorize a)
10 Comprehensive Plan Map amendment and Zoning)
11 Map Amendment on an approximately 1,273 acre)
12 tract of land.)
13

14 **ORDINANCE NO. 13-03**
15

16 **WHEREAS**, the Board of Commissioners held a public hearing on January 9, 2013
17 with due notice of such public hearing having been given, and provided an opportunity for
18 public comments and testimony; and
19

20 **WHEREAS**, the Board of Commissioners received a recommendation in support of
21 Plan Amendment PA 11-01 and Zone Change ZC 11-02 from the Polk County Hearings
22 Officer based upon his public hearing and conclusions; and
23

24 **WHEREAS**, the Board of Commissioners received a recommendation in support of
25 Plan Amendment PA 11-01 and Zone Change ZC 11-02 from Polk County Planning staff
26 based upon the findings and evidence in the record; and
27

28 **WHEREAS**, on January 9, 2013, the Board of Commissioners publicly deliberated
29 and unanimously passed a motion to approve Plan Amendment PA 11-01 and Zone Change
30 ZC 11-02; now therefore,
31

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

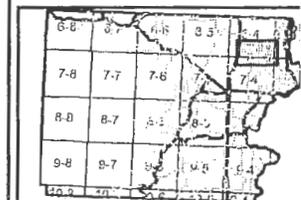
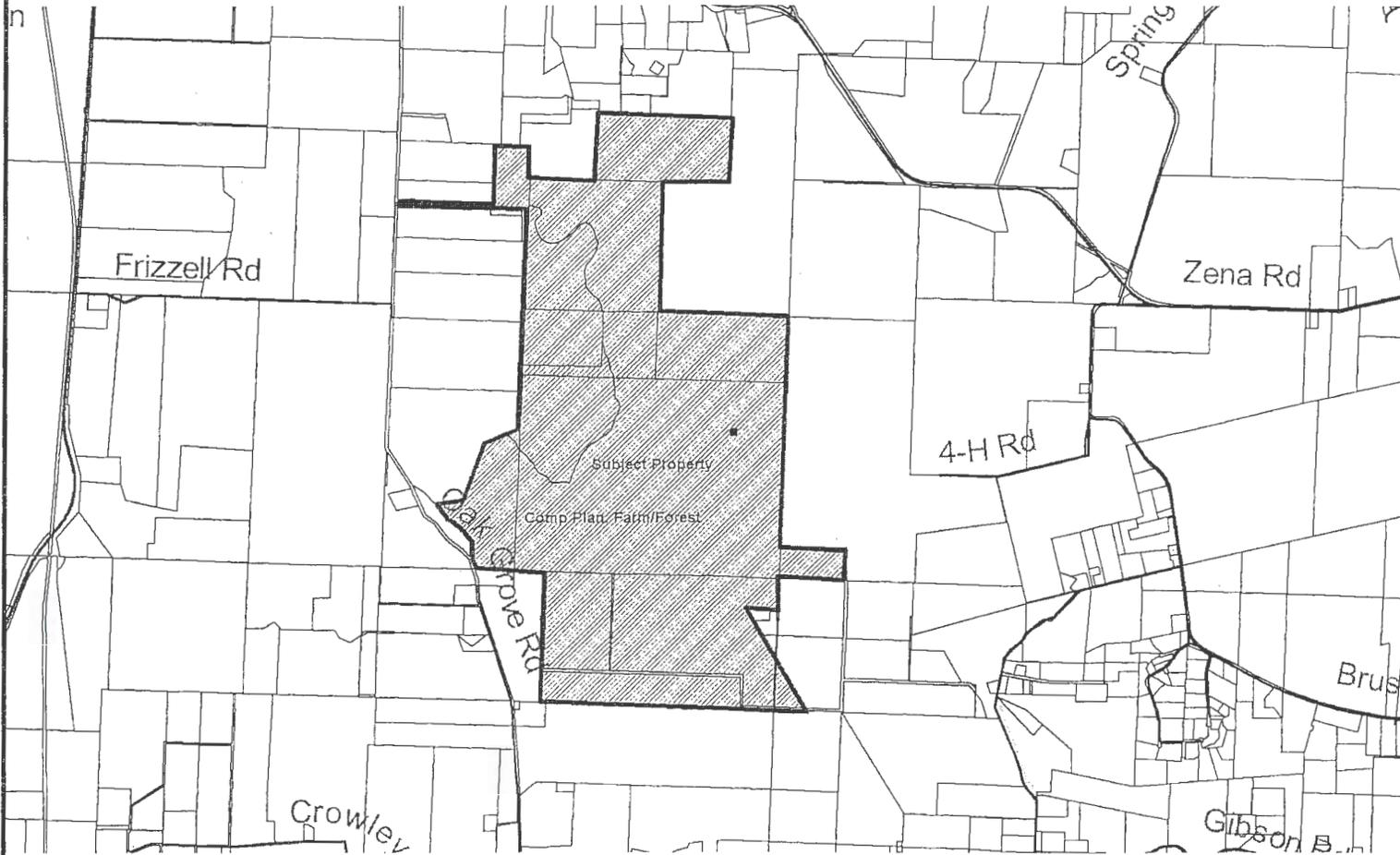
34 Sec. 1. That Polk County adopts the findings for Plan Amendment PA 11-01 and
35 Zone Change ZC 11-02 located in the Hearings Officer's recommendation as shown on
36 Exhibit C.
37

38 Sec. 2. That Polk County amends the Polk County Comprehensive Plan Map for
39 the approximately 1,273 acre tract from Agriculture to Farm/Forest. The subject tract is
40 depicted on Exhibit A and is identified on the Assessment Map as:
41

42 T6S, R4W, Section 27, Tax Lots 200, 500, and 501;
43 T6S, R4W, Section 28, Tax Lot 900;
44 T6S, R4W, Section 33, Tax Lots 500 and 501;
45 T6S, R4W, Section 34, Tax Lots 100, 200, 201, 202, 300, and 301;
46 T6S, R4W, Section 35, Tax Lot 201; and
47 T7S, R4W, Section 3, Tax Lot 200
48
49

Community Development

-  County
-  Roads
-  GRAVEL
-  OTHER
-  STATEHWY
-  PAVED
-  Taxlot12



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. = 3300 ft.



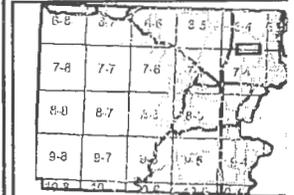
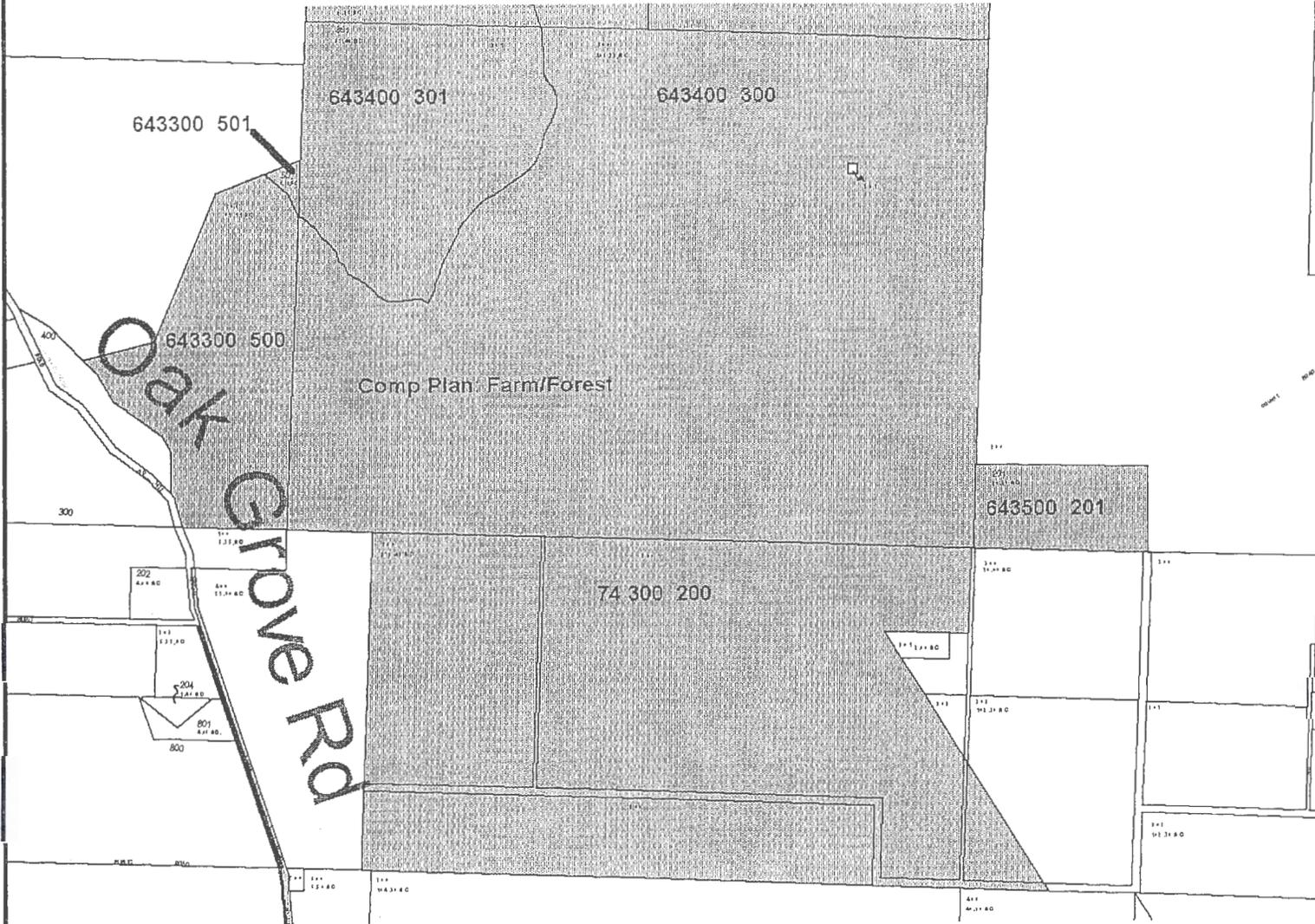
1/15/2013



PA 11-01

Community Development

-  County
-  Roads
-  GRAVEL
-  OTHER
-  PU-GRAVEL
-  PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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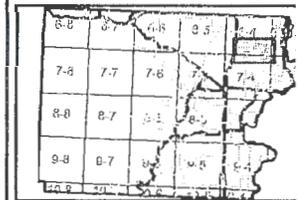
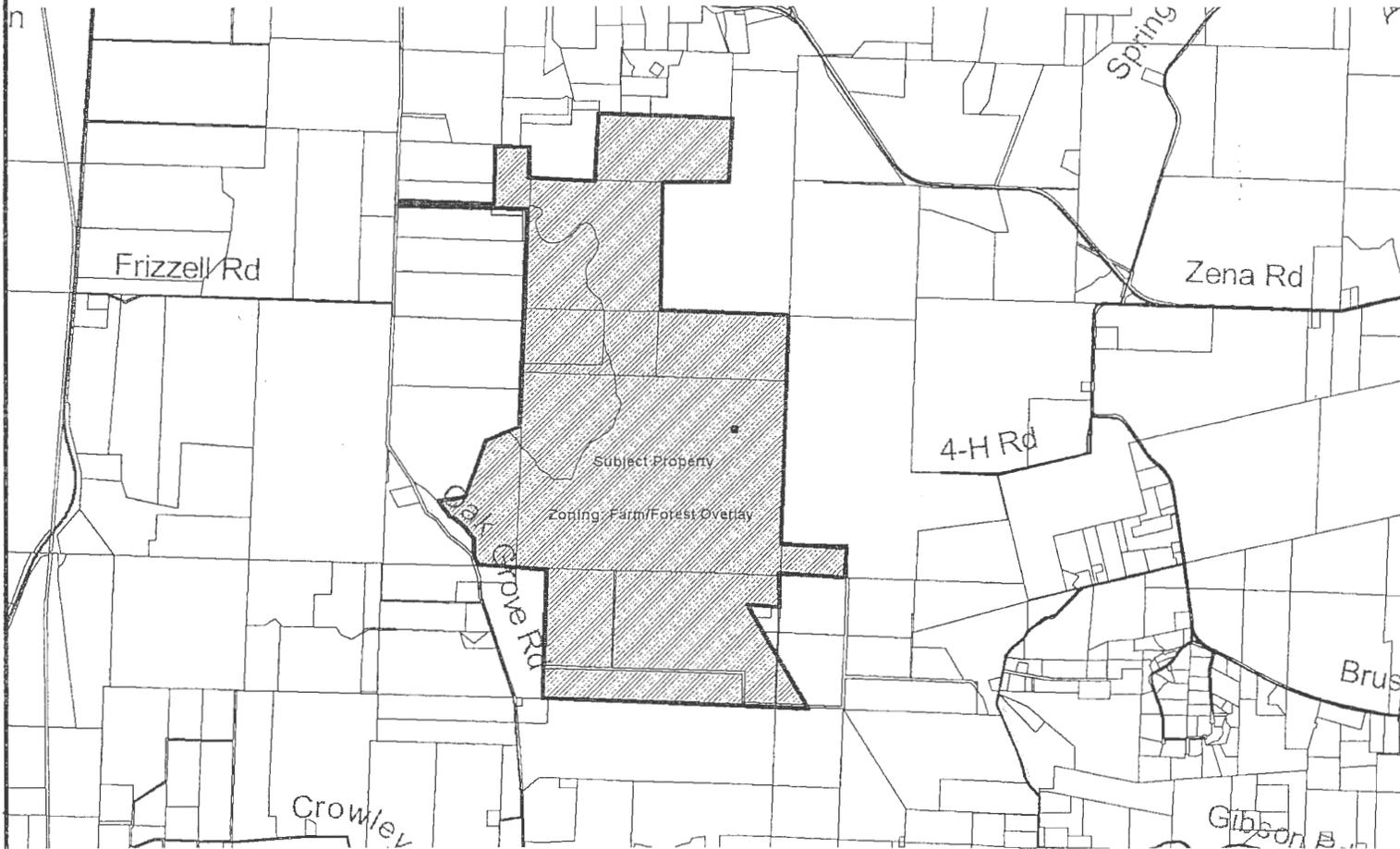
1 in. = 1200 ft.



1/15/2013

Exhibit A-3

-  County
-  Roads
- GRAVEL
- OTHER
- STATEHWY
- PU-GRAVEL
- PAVED
-  Taxlot



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1 in. = 3300 ft.



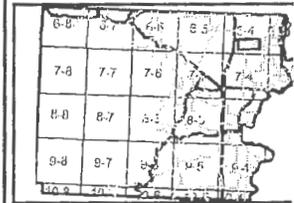
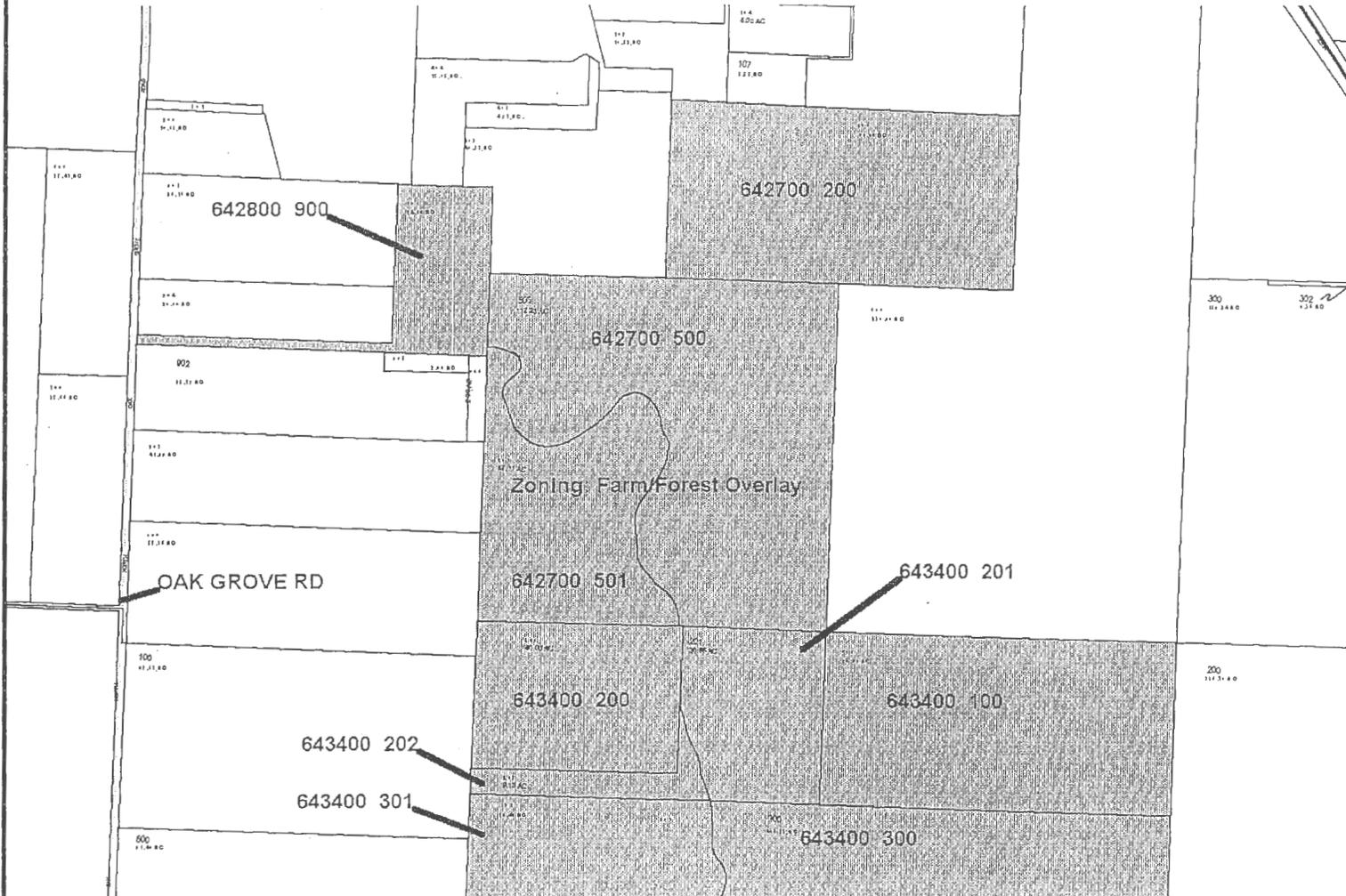
1/15/2013



ZC 11-02

Community Development

-  County
-  Roads
-  GRAVEL
-  PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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1 in. = 1200 ft



1/15/2013

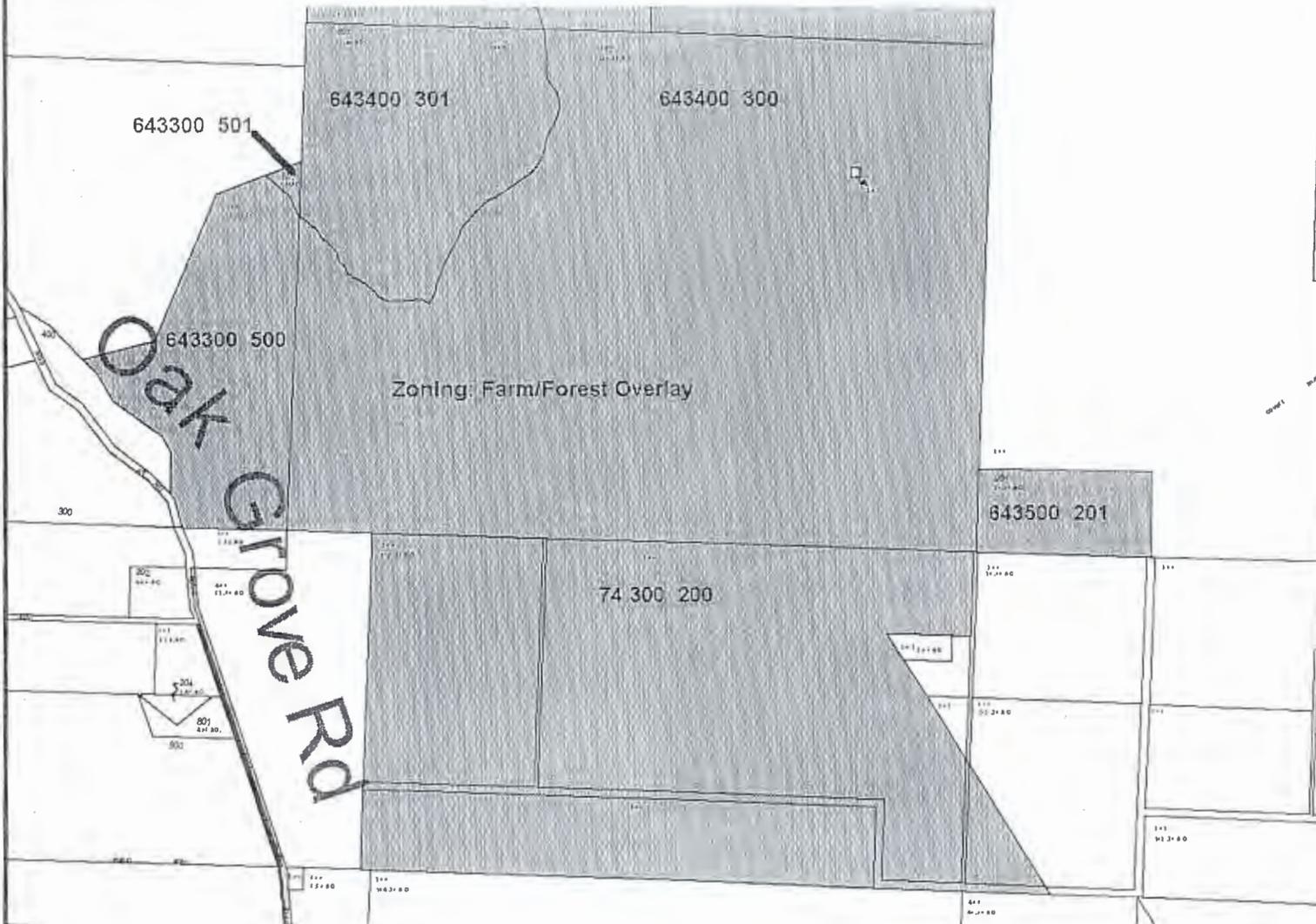


Exhibit B-2

ZC 11-02

Community Development

-  County
-  Roads
 -  GRAVEL
 -  OTHER
 -  PAVED
-  Taxlot13
-  Taxlot Arrows13
-  Taxlot Boundary13
-  taxlot13



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. = 1200 ft.



1/15/2013

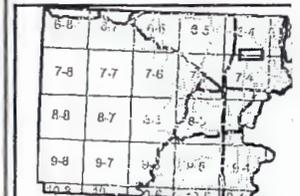


Exhibit B-3

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

RECEIVED
DEC 10 2012

In the Matter of the Applications of
Zena Forest, LLC, Ben Deumling

(Plan Amendment 11-01
(Zone Change 11-02
(Conditional Use 12-09

POLK COUNTY
COMMUNITY DEVELOPMENT

SUMMARY OF PROCEEDINGS

This matter arose on the application of Zena Forest, LLC, Ben Deumling co-owner, for:

1. An amendment to the Polk County Comprehensive Plan (PCCP) Map to change the designation of an approximately 1,273-acre tract from Agriculture to Farm/Forest.
2. A zoning Map amendment to change the zoning of the approximately 1,273-acre tract from Exclusive Farm Use (EFU) to Farm/Forest Overlay (FFO).
3. A conditional use permit to operate a permanent sawmill (Permanent Facility for the Primary Processing of Forest Products) on the subject tract.

The subject tract is located at 4550 North Oak Grove Road, Rickreall, Polk County, Oregon. The applicable review and decision criteria are Polk County Zoning Ordinance (PCZO) Sections 111.140, 111.275, 115.050(A), 119.070, 138.060(A), 138.100(A) & (B), 138.110, and 138.120.

The subject property is currently designated Agriculture on the PCCP Map and EFU on the Zoning Map. The applicant is proposing to change the PCCP designation of the subject property to Farm/Forest and the zoning to FFO.

The applicant has concurrently applied for a conditional use permit in order to operate a permanent facility for the primary processing of forest products – a sawmill – on one of the parcels contained within the tract. Approval of the conditional use permit would be contingent on approval of the PCCP Map amendment and the zoning Map amendment.

According to the information provided in the application, the primary purpose of this application is to update the PCCP and Zoning Maps in order to accurately reflect the established uses of the subject property and to allow approval of a conditional use for a small sawmill on the subject property. The proposed FFO zone allows a permanent facility for the primary processing of forest products as a conditional use. According to the applicant, approximately 1,218 acres of the subject property are in timber production, 50 acres are in agricultural crops or pasture, and 5 acres are used as a home-site and proposed for sawmill development.

Applications PA 11-01 and ZC 11-02 were originally submitted on October 28, 2011. Those applications were amended and resubmitted in their current form on August 17, 2012. The applicant also submitted application CU 12-09 on August 17, 2012. CU 12-09 was deemed complete when the applicant submitted additional information on September 28, 2012.

Applications PA 11-02 and ZC 11-02 were evaluated concurrently, and approval of each application shall be dependent upon approval of the other. Therefore; both applications must become effective in order to implement this approval. Approval of CU 12-09 is dependent on approval of PA 11-01 and ZC 11-02.

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

Location	Comprehensive Plan Designation	Zoning Designation (See Zoning Map Attachment C)
Subject Property	Agriculture	Exclusive Farm Use
Property North	Agriculture and Farm/Forest	Exclusive Farm Use and Farm/Forest
Property South	Agriculture	Exclusive Farm Use
Property East	Agriculture and Public	Exclusive Farm Use and Public and Private Educational Facilities
Property West	Agriculture	Exclusive Farm Use

The subject tract contains approximately 1,273 acres. The subject tract contains a parcel with the situs address of 4550 North Oak Grove Road, Rickreall, OR. The subject tract is identified on the Assessment Map as follows:

- T6S, R4W, Section 27, Tax Lots 200, 500, and 501;
- T6S, R4W, Section 28, Tax Lot 900;
- T6S, R4W, Section 33, Tax Lots 500 and 501;
- T6S, R4W, Section 34, Tax Lots 100, 200, 201, 202, 300, and 301;
- T6S, R4W, Section 35, Tax Lot 201; and
- T7S, R4W, Section 3, Tax Lot 200

The applicant, Zena Forest LLC, also owns property identified as Tax Lots 403, 404 and 405 in T6S, R4W, Section 27 that is designated Farm/Forest on the PCCP Map and FF on the Zoning Map. That property is contiguous to the subject tract, but not included in this application. Also, a 5,625 square foot property identified as Tax Lot 501 (T6S, R4W, Section 34) is surrounded by the subject property. Tax Lot 501 is not owned by Zena Forest LLC, and is not a part of this application.

Based on a review of the Polk County Assessor records, the subject property contains one dwelling and three (3) accessory structures. The dwelling was permitted by Polk County Planning Authorization FORD 94-1 and Building Permit 87-120. Based on a review of Polk County Planning records, the subject property was approved for a series of property line adjustments between parcels within the tract. Those approvals are identified as LLA 05-55, LLA 05-56, LLA 05-57, LLA 05-58, LLA 05-59, and LLA 05-60. Those property line adjustments created the current configuration of the parcel that would contain the sawmill proposed in CU 12-09 and the dwelling located at 4550 North Oak Grove Road, Rickreall, Polk County, Oregon. That parcel contains approximately 132 acres and is identified on the Assessment Map as T6S, R4W, Section 27, Tax Lot 501; T6S, R4W, Section 33, Tax Lot 501; and T6S, R4W, Section 34, Tax Lots 200, 202, and a portion of 301. See Attachment B of the staff report.

Based on a review of the Polk County Significant Resource Areas Map, the subject property borders an unnamed tributary to Ash Swale. That tributary runs adjacent to Oak Grove Road and is identified as a significant fish bearing stream. A small portion of the southeast corner of the subject tract is located within the impact area adjacent to the "Freeman Quarry," which is identified on Polk County's inventory of significant aggregate sites. Based on a review of the National Wetland Inventory map, Rickreall and Amity quadrangles, the subject tract contains unnamed creeks that are identified as

significant riparian areas. The subject tract also contains a significant wetland on Tax Lot 301.

The applicant has requested under CU 12-09 to establish a sawmill on the subject tract. Based on a review of the plot plan submitted with the application (Attachment A of the Staff Report), the proposed sawmill would not be located in close proximity to the inventoried riparian and wetland areas, the fish bearing stream, or the neighboring quarry.

Any future development in a riparian or wetland setback or fish bearing streams would be subject to the standards listed in PCZO Chapter 182. 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 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 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 Polk County's soil report for the subject property (Attachment E of the staff report), the subject property contains approximately 29.9% high value soils. The subject property is cable of annually producing an average of approximately 61.6 cubic feet of wood fiber per acre.

Notification of these applications was sent to the Department of Land Conservation and Development (DLCD) on September 11, 2012. Notice was mailed to surrounding property owners on November 5, 2012, and notice was provided in the Dallas, Oregon, *Itemizer-Observer* newspaper on November 7, 2012. A revised notice, correcting the tax lots subject to this application, was sent to the *Itemizer-Observer* to run in the November 21, 2012 edition. The applicant posted a sign on the subject property on or prior to November 7, 2012. Notice of these public hearings was provided in accordance with PCZO 111.340 through 111.370.

The subject tract has frontage along Oak Grove Road, a minor collector as designated in the *Polk County Transportation Systems Plan*, Figure 3. It is served by a private well and septic system.

PREHEARING COMMENTS

The Polk County Public Works Department provided comments, and indicated it would not have a concern with an increase of five average daily vehicle trips (ADT) along Oak Grove Road. The department did not recommend a traffic impact analysis for these applications.

The Polk County Building Division records show two building permits, B8787-120 and B89-B89-3-150, and two electrical permits, E07-1188 and E08-391, for the property located at 4550 North Oak Grove Road. Building Permit B87-120 was for a single family dwelling and Building Permit B89-3-50 was for solar panels. Electrical Permit E07-1188 was for a pole mounted 400 amp service and Electrical Permit E08-391 was for a service reconnect. The owner would be required to obtain all necessary permits from the Building Division for structures being used as part of the sawmill operation.

No other comments were received prior to the public hearing.

PUBLIC HEARING

A duly advertised public hearing was held on the evening of November 27, 2012, in the Polk County Courthouse. The Hearings Officer recited the applicable admonitions required by law and ordinance, and explained the procedure to be followed. There were no objections as to notice, jurisdiction or conflict of interest. The Hearings Officer indicated that he was not acquainted with

the applicants, and has no financial interest in the outcome. Staff delivered its report and recommendation, citing the applicable review and decision criteria.

Ben Deumling, co-owner of Zena Forest LLC, represented applicant. He briefly stated the purpose of the application, and endorsed the findings and conclusions of the staff report.

Douglas Drawbond stated that he is a neighbor, and expressed concern about possible noise impacts of the proposed sawmill's operation. Deumling said the mill would operate during normal working hours. Staff confirmed that while the mill would not be limited to processing lumber grown on the subject tract, a condition would limit its production volume to 50,000 board feet per year. Joined by co-owner Sarah Deumling, he indicated that existing conservation easements would be respected. He said he contemplated that initially, at least, two persons would be employed full time at the site.

No one else was present to testify for or against the application. There had been no adverse testimony for rebuttal. There were no requests for a continuance, or to leave the record open for additional evidence. Consequently, the Hearings Officer closed the record and adjourned the meeting.

Robert W. Oliver, Polk County Hearings Officer, conducted the meeting. He had been given authority by the Board of Commissioners to make recommendations and a decision regarding the applications.

FINDINGS

(General)

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 review and decision criteria for a conditional use permit in the FFO zone are listed in PCZO 119.070, 138.060(A), 138.100(A) & (B), 138.110, and 138.120. Staff findings and analysis are included in the staff report. The applicant provided proposed findings that are cited in the staff report. The applicant's proposed findings are also included as Attachment F of the staff report.

(Plan Amendment, PA 11-01)

Amendments to the PCC 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)]**

1. AGRICULTURE

The areas designated Agriculture occur mainly in the eastern and central sections of the County. These areas are characterized by large ownerships and few non-farm uses. Topography in these areas is usually gentle, including bottom lands, central valley plains and the low foothills of the Coastal Range. This diversity of terrain allows County farmers the option of producing a variety of commodities. Farmers can produce grain or livestock in level areas; set up orchards, vineyards and pastures on the hills; or develop woodlots (or farm forestry) on the foothills. The areas designated for agriculture have a predominance of agricultural soils (SCS capability class I-IV).

It is the intent of the Agriculture Plan designation to preserve agricultural areas

and separate them from conflicting non-farm uses. Toward that end, the County will discourage the division of parcels and the development of non-farm uses in a farm area (Only those non-farm uses considered essential for agriculture will be permitted).

The Agriculture Plan designation will be implemented throughout the Exclusive Farm Use Zones. [PCCP Section 4, Land Use Plan Designations, Agriculture]

2. FOREST

The areas designated as Forest are located within the western reaches of the County, primarily in the Coast Range. These areas generally have large holdings and few urban uses. The predominant use in the Forest area is timber production. Besides providing employment and wood products, forest lands are valued by County residents for the opportunities they present for enjoyment of scenic beauty, open space and recreational activities such as camping, fishing, hiking, hunting and swimming. Forest lands also play a valuable role in helping to maintain air, land and water quality and in serving as habitats for fish and wildlife.

It is the intent of the Forest Plan designation to conserve forest lands for continued timber production, harvesting and processing. This designation also aims to protect watersheds and wildlife habitats. Land use activities will be permitted for which it can be demonstrated that potential hazards from fire, pollution or ecological damage from over use will be minimal.

In general, the Forest Plan designation will be implemented through the Timber Conservation Zone. [PCCP Section 4, Land Use Plan Designations, Forest]

3. FARM/FOREST

The Farm/Forest designation applies to lands which, for the most part, lie between the relatively flat agricultural areas and the foothills of the Coast Range.

These lands are generally hilly, heavily vegetative, and have scattered areas of residential development. These lands had originally been designated Rural Lands. However, the Land Conservation and Development Commission (LCDC) did not grant a general exception to the Oregon Statewide Planning Goals, as requested by the County, for approximately 41,000-acres of Rural Lands designated properties. As a result, those properties converted to the Farm Forest Plan Designation. There are many full-time farms located in this area; however, more of the smaller part-time farms that exist in the area were created through the land division process when the area was designated Rural Lands. The Farm Forest Plan Designation recognizes those smaller properties. These areas exhibit a predominance of agricultural soils and timber lands as defined by State statutes.

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.

The Farm/Forest Zone Overlay is implemented by the Farm/Forest zone and the additional provisions of the EFU zone for land divisions and farm dwelling approvals. The Farm/Forest zone shall be applied to land where the parcelization pattern was predominately less than 80 acres as of October 12, 1988. The Farm/Forest zone overlay shall be applied to land where the parcelization pattern is greater than 80 acres located along the perimeter of the Farm Forest designation, or in large block within the Farm Forest Designation. [PCCP Section 4, Land Use Plan Designations, Farm/Forest]

Applicant states that the land is currently designated as Agriculture in the PCCP, which is defined as *areas with few non-farm uses, gentle topography, and a predominance of agricultural soils class I-IV*¹ The land does not adequately meet this definition. Instead, the land lies along the steep west facing slope of the Eola Hills, is heavily vegetated, and consists of primarily soil class VI and VII, with approximately 29% in class IV soils. The subject property has been managed primarily for timber production since 1985, with less than 5% in agriculture production. This combination of soils and historic uses better meets the Farm Forest designation in the PCCP.

The applicant makes the assertion that the current PCCP designation of Agriculture is erroneous and the Farm/Forest designation would more closely match the characteristics and uses established on the tract. PCZO 115.050(A)(1) allows a PCCP amendment if the designation is erroneous and the proposed amendment would correct that error. This criterion would clearly apply to amendments intended to fix unintentional mapping errors; however, staff believes that it is also appropriate to apply this criterion to circumstances where a new PCCP designation has been created that would more closely match the existing characteristics and uses established on the property in question. That scenario is applicable to this application.

It is useful in this situation to review the history associated with the creation of the Farm/Forest PCCP designation. After the adoption of the statewide planning goals by the Oregon Legislature in 1975, and the adoption of ORS 197 and 215, counties were required to “prepare and adopt comprehensive plans consistent with the statewide planning goals... [and to] enact zoning, subdivision and other ordinances or regulations to implement their comprehensive plans” (ORS 197.175). The first resource designations in the original PCCP divided land between Agricultural Areas and land used for Forestry (Ordinance 137, dated December 4, 1975). While the original, 1975 PCCP was not acknowledged as consistent with the Oregon Statewide Planning Goals, it demonstrates that a mixed use, farm/forest designation was not a part of the original Plan.

The roots of the creation of the Farm/Forest Plan designation lie with Polk County’s efforts to designate land for rural residential purposes. As described in Section IV of the PCCP, during the Plan acknowledgment process, the Land Conservation and Development Commission (LCDC) found that 41,000 acres that Polk County designated as Rural Lands, which would be zoned for rural residential purposes, was not consistent with the Statewide Planning Goals. In 1980, Polk County created and applied the Farm/Forest designation to those 41,000 acres.

The Farm/Forest PCCP Designation was adopted under Ordinance 274, dated November 19, 1980, and was acknowledged to be consistent with the Statewide Planning Goals when it was revised under Ordinance No. 88-25, dated December 21, 1988. So, it was not until 1980 that a mixed use, farm/forest PCCP designation was adopted in Polk County. The Farm/Forest zone was created at the same time in 1980, to implement the Farm/Forest PCCP designation, and the Farm/Forest Overlay Zone was added to the Farm/Forest zone in 1988 under Ordinances 88-21. This legislative history indicates that a mixed, farm/forest PCCP designation was not created until the large majority of farm or forest parcels had already been designated as either Agriculture or Forest on the PCCP map. When the Farm/Forest PCCP designation was created it did not open all of the thousands of acres that were already designated as Agriculture or Forest for review to

¹ Comprehensive Plan P. 63

determine if they would be more appropriately designated Farm/Forest. As a result, there are numerous properties in Polk County that may be designated Agriculture or Forest that could justifiably be designated Farm/Forest. The tract of land that is the subject of this application is one such example.

As described in Section IV of the PCCP, properties that are classified as Agriculture have the following general characteristics:

The areas designated Agriculture occur mainly in the eastern and central sections of the County. These areas are characterized by large ownerships and few non-farm uses. Topography in these areas is usually gentle, including bottom lands, central valley plains and the low foothills of the Coastal Range. This diversity of terrain allows County farmers the option of producing a variety of commodities. Farmers can produce grain or livestock in level areas; set up orchards, vineyards and pastures on the hills; or develop woodlots (or farm forestry) on the foothills. The areas designated for agriculture have a predominance of agricultural soils (SCS capability class I-IV).

It is the intent of the Agriculture Plan designation to preserve agricultural areas and separate them from conflicting non-farm uses. Toward that end, the County will discourage the division of parcels and the development of non-farm uses in a farm area (Only those non-farm uses considered essential for agriculture will be permitted).

The Agriculture Plan designation will be implemented throughout the Exclusive Farm Use Zones. [PCCP Section 4, Land Use Plan Designations, Agriculture]

Based on a review of the information available through the Polk County Geographical Information System (GIS), the subject property is located within the Eola Hills and contains relatively steep terrain. The subject tract contains approximately 29.9% high-value soils (Class I-IV soils), (See Attachment E of the staff report), and the applicant reports that less than five percent of the subject tract is used for agricultural purposes. The tract is predominantly used for forestry purposes, and is heavily vegetated. These characteristics loosely match the above definition of lands designated Agriculture. The terrain of the subject property is not gentle, but may have similar characteristics to the low foothills of the Coast Range. The subject property does not contain a predominance of Class I-IV soils.

It is understandable how the subject property would have been designated Agriculture, prior to the creation of the Farm/Forest designation; however, the Farm/Forest designation provides a closer description to the characteristics and established uses of the subject property. As described in Section IV of the PCCP, properties that are classified as Farm/Forest have the following general characteristics:

The Farm/Forest designation applies to lands which, for the most part, lie between the relatively flat agricultural areas and the foothills of the Coast Range.

These lands are generally hilly, heavily vegetative, and have scattered areas of residential development. These lands had originally been designated Rural Lands. However, the Land Conservation and Development Commission (LCDC) did not grant a general exception to the Oregon Statewide Planning Goals, as requested by the County, for approximately 41,000-acres of Rural Lands designated properties. As a result, those properties converted to the Farm Forest Plan Designation. There are many full-time farms located in this area; however, more of the smaller part-time farms that exist in the area were created through the land division process when the area was designated Rural Lands. The Farm Forest Plan Designation recognizes those smaller properties. These areas exhibit a predominance of agricultural soils and timber lands as defined by State statutes.

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.

The Farm/Forest Zone Overlay is implemented by the Farm/Forest zone and the additional provisions of the EFU zone for land divisions and farm dwelling approvals. The Farm/Forest zone shall be applied to land where the parcelization pattern was predominately less than 80 acres as of October 12, 1988. The Farm/Forest zone overlay shall be applied to land where the parcelization pattern is greater than 80 acres located along the perimeter of the Farm Forest designation, or in large block within the Farm Forest Designation. [PCCP Section 4, Land Use Plan Designations, Farm/Forest]

As described by the applicant, and apparent in a review of the 2008 Polk County Aerial Photograph, and the contour data available in the Polk County GIS, the subject property is located along a relatively steep slope and is heavily vegetated. The applicant operates a commercial forestry operation on the subject property, lending support to this effort to protect the land for continued forestry use. The subject property also contains existing agricultural uses, and in addition, the subject property is located within the Eola-Amity Hills American Viticultural Area (AVA). AVAs mark distinctive and productive wine grape growing areas. The subject property has potential for wine grape production, and the processing of wine grapes requires a permit as a winery or commercial activity in conjunction with farm use. Based on this evidence, the subject property more appropriately fits the description of land that is designated as Farm/Forest rather than Agriculture.

Based on the above findings, the Hearings Officer and staff find 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]

- i. Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources. [Statewide Planning Goal 4, OAR 660-015-0000(4)]**
- ii. Governing bodies shall identify “forest lands” as defined by Goal 4 in the comprehensive plan. Lands inventoried as Goal 3 agricultural lands, lands for which an exception to Goal 4 is justified pursuant to ORS 197.732 and taken, and lands inside urban growth boundaries are not required to be planned and zoned as forest lands. Lands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service. [OAR 660-006-0010(1)]**
- iii. Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied. [OAR 660-006-0015(1)]**
- c. When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation. [OAR 660-006-0015(1)]**
- d. 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]**
- e. 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]**
- f. 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]**

- g. **The Farm/Forest designation applies to lands which, for the most part, lie between the relatively flat agricultural areas and the foothills of the Coast Range.**

These lands are generally hilly, heavily vegetative, and have scattered areas of residential development. These lands had originally been designated Rural Lands. However, the Land Conservation and Development Commission (LCDC) did not grant a general exception to the Oregon Statewide Planning Goals, as requested by the County, for approximately 41,000-acres of Rural Lands designated properties. As a result, those properties converted to the Farm Forest Plan Designation. There are many full-time farms located in this area; however, more of the smaller part-time farms that exist in the area were created through the land division process when the area was designated Rural Lands. The Farm Forest Plan Designation recognizes those smaller properties. These areas exhibit a predominance of agricultural soils and timber lands as defined by State statutes.

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.

The Farm/Forest Zone Overlay is implemented by the Farm/Forest zone and the additional provisions of the EFU zone for land divisions and farm dwelling approvals. The Farm/Forest zone shall be applied to land where the parcelization pattern was predominately less than 80 acres as of October 12, 1988. The Farm/Forest zone overlay shall be applied to land where the parcelization pattern is greater than 80 acres located along the perimeter of the Farm Forest designation, or in large block within the Farm Forest Designation. [PCCP Section 4].

Based on the Polk County Soil Survey, applicant argues that this land is predominately Forest Site Class III. The owner of the property Zena Forest LLC is a family owned timber company whose mission is to manage timber for both fiber production and ecological resilience. To this end, the entire property is protected from any future development by a conservation easement with a dual mandate of timber production and habitat conservation, with agriculture allowed to continue on those sites suited to and already in agriculture production.

According to Section 4 of the PCCP, the Farm/Forest designation applies to lands which, for the most part, are situated between the relatively flat agricultural areas and the foothills of the Coast Range. The intended purpose of the Farm/Forest designation is to: *“provide an opportunity for the continuance of large and small scale commercial farm and forestry operations.”*² The PCCP further states that these *“lands are generally hilly, heavily vegetative, and have scattered residential*

² Comprehensive Plan, p. 68.

development.” The subject property meets these requirements.³

The Farm/Forest designation recognizes both agriculture and forestry as appropriate resource activities. Therefore the amendment needs to be consistent with both of those sections of the PCCP.

The amendment is also consistent with the requirements of Section 2-B of the PCC regarding agricultural lands, which contains three goals:

1. **To preserve and protect agricultural land within Polk County;**
2. **To diversify agriculture within Polk County; and**
3. **To preserve and protect those resources considered essential for the continued stability of agriculture within Polk County. (PCCP Section 2)**

Applicant maintains that 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.**
- 1.4 **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. (PCCP Section 2)**

As mentioned above, the subject property is managed as a commercial forest for timber production. As is described above, the site mostly contains soils that are typically not considered high value for most types of farm crops, those soils are excellent however for growing forest tree species, particularly Oregon White Oak which thrives on the drier poorer soils of the uplands in the Willamette Valley. Based on NRCS soil surveys, the subject property has the capability to produce an average of 60 cubic feet/acre/year, or a total of 78,500 cubic feet/year in wood fiber. Based on information from the Oregon Department of Forestry’s “Land Use Planning Notes”⁴, this is more than adequate for commercial timber production.

The primary land use is commercial forestry with a portion remaining in agricultural production. In conclusion, amending the PCCP designation to Farm/Forest is consistent with the historical and current management of the land.

The application also conforms to the requirements of Section 2-C of the PCCP relating to forest lands, which 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. (PCCP Section 2)**

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. (PCCP Section 2)**

There are minimal springs and wetlands, and no year-round waterways on the subject property. The property lies within a groundwater limited area, and wells that have been dug on site are adequate for a house and garden, but no more. Because of this there is very little potential to

³ Comprehensive Plan, pp. 67-68.

⁴ www.oregon.gov/ODF/STATE_FORESTS/FRP/docs/LandUsePlanningNotes3FINAL.pdf

increase the amount of farmed land. The historical use of commercial timber production is the best way to insure that the fragile wetlands that do exist on the property are maintained.

The subject property is not in need of reforestation at this time. The forest land consists of a wide diversity of age classes in Douglas Fir, Oregon White Oak, and Western Big Leaf Maple. These stands are selectively thinned ensuring adequate crown cover and tree density, as outlined by the Oregon Forest Practices Act. Large portions of Oak Savannah were recently rehabilitated through a joint venture with US. Fish and Wildlife and Oregon Watershed Enhancement Board.

Applicant contends that the Application complies with criterion "C-1" (PCZO 115.050(A)(3)(a)).

The applicant is proposing to change the PCCP designation of the subject property from Agriculture to Farm/Forest. The Farm/Forest designation implements both the Agricultural Land and Forest Lands PCCP goals and policies. It also implements both Statewide Planning Goals 3 and 4. The subject property has been designated Agriculture in the PCCP for approximately 37 years and the Agriculture designation was acknowledged by LCDC to be consistent with the Oregon Statewide Planning Goals. The question posed in considering the applicant's proposed PCCP amendment is whether it is consistent with the PCCP to also protect the subject property as forest land under Statewide Planning Goal 4.

PCCP Section 2, Forest Lands Policy 1.1 states in relevant part:

Polk County will provide for the protection of productive forest lands. Designated forest lands will be areas defined as one of the following:

- ii. Suitable for commercial forest use;

The applicant indicates that the subject property is suitable for commercial forest use. According to the applicant, the subject property has been primarily managed for timber production since 1985. The applicant's forest land contains Douglas Fir, Oregon White Oak, and Western Big Leaf Maple, and the applicant's focus is on the cultivation and processing of hardwoods.

PCCP Section 2, Forest Lands Policy 1.2 states:

Polk County shall designate forest lands on the Comprehensive Plan Map consistent with Goal 4 and Oregon Administrative Rules Chapter 660, Division 6.

As described in this criterion above, Goal 4 states that counties shall protect lands that are "suitable for commercial forest uses." The applicant has demonstrated by managing the subject tract predominantly for forestry since 1985 that the subject property is suitable for commercial forest uses. The applicant is also seeking to further ensure the viability of their commercial forest by establishing a sawmill under CU 12-09 that would process hardwoods that are grown on the subject property. OAR 660-006-0010(1) states that "[l]ands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service." As described in *Just v. Linn County*, LUBA No. 2009-068, dated November 9, 2009, there is no soil productivity threshold under state law or administrative rule or statute that separates commercial forest land from non-commercial forest land. However, in discussing the use of soil data in determining whether land is suitable or unsuitable for commercial forest uses, LUBA stated:

Our cases suggest that land with a productivity of less than 20 cf/ac/yr may be unsuitable for commercial forest use unless there are factors that compensate for the land's relatively low productivity. But land in a middle range from a low of approximately 40 cf/ac/yr to a high of approximately 80 cf/ac/yr is unlikely to be unsuitable for commercial forest use unless there are additional factors that render those moderately productive soils unsuitable for commercial forest use. Rural land with a wood fiber productivity of over 80 cf/ac/yr is almost certainly suitable for commercial forest use, even if there are limiting factors. [*Just v. Linn County*, LUBA No. 2009-068, Page 11, Lines 1-8]

Based on the soil analysis presented in Attachment E of the staff report, the subject property is

capable of producing an average of 62 cubic feet of wood fiber per acre per year (cf/ac/yr). This average is based on NRCS data and includes unrated soils that in this calculation are listed as producing zero cubic feet of wood fiber per acre per year. Based on a review of the 2008 Polk County Aerial Photograph, there are trees growing on the unrated soils; therefore, the unrated soils have positive productivity, and the annual soil capability should actually be greater than 62 cubic feet of wood fiber per acre per year. The applicant indicates that the subject tract is productive for Oregon White Oak and Big Leaf Maple hardwoods, and contends that the subject property has been predominantly managed for commercial forest uses since 1985. The 2008 Polk County Aerial Photograph shows the subject property as predominantly covered in trees. Based on these factors, staff concludes that the subject property constitutes productive forest land and should be protected as such under the PCCP and Goal 4. As discussed above, the subject property meets the definition of land that should be protected under the Farm/Forest PCCP land designation. The Farm/Forest designation would be appropriate for the subject property because it is primarily used as commercial forest land but also contains some land that is used for agricultural purposes. Staff concluded that the proposed PCCP designation of Farm/Forest would protect the existing commercial forest on the subject property, and through implementation of the Farm/Forest Overlay zone, would allow for development of forestry related uses such as a permanent facility for the primary processing of forest products as requested in CU 12-09. The Farm/Forest designation, implemented by the FFO zone, would also continue to permit the spectrum of agricultural activities that are currently permitted on the subject property.

The Farm/Forest designation protects land that have been inventoried as agricultural and forest land. With respect to lands that are both agricultural land and forest land, OAR 660-006-0015 states:

- (1) Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone that conserves forest lands consistent with OAR chapter 660, division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732, the forest lands are marginal lands pursuant to ORS 197.247 (1991 Edition), the land is zoned with an Exclusive Farm Use Zone pursuant to ORS chapter 215 provided the zone qualifies for special assessment under ORS 308.370, or is an "abandoned mill site" zoned for industrial use as provided for by ORS 197.719. In areas of intermingled agricultural and forest lands, an agricultural/forest lands designation may also be appropriate if it provides protection for forest lands consistent with the requirements of OAR chapter 660, division 6. The plan shall describe the zoning designation(s) applied to forest lands and its purpose and shall contain criteria that clearly indicate where the zone(s) will be applied. [OAR 660-006-0015(1)]
- (2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation. [OAR 660-006-0015(1)]

OAR 660-006-0015(1) indicates that it may be appropriate to designate land as agricultural/forest lands where there are areas of intermingled agricultural and forest lands. In order to justify a mixed agricultural/forest designation where land is both agricultural and forest land, OAR 660-006-0015(1) and OAR 660-006-0057 require the applicant to demonstrate that there is a mix of agricultural and forest uses on the property, and the Comprehensive Plan must document why the agricultural/forest designation was selected. The applicant is proposing to change the PCCP map designation from Agriculture, which is designed to protect agricultural land, to Farm/Forest, which is designed to protect agricultural and forest lands.

According to the information submitted with the application, the subject property is predominantly managed for forestry purposes. The applicant indicates that 50 acres are managed for agricultural production including areas managed for grass seed and livestock grazing. The subject property is located within the Eola-Amity Hills AVA. AVAs mark distinctive and productive wine grape growing areas. Based on its location in an AVA, the subject property has potential for wine

grape production. The processing of wine grapes requires a permit as a winery or commercial activity in conjunction with farm use. Those uses implement Goal 3, and are allowed in the EFU and FFO zones, but not the TC zone, which implements Goal 4. The Farm/Forest designation, implemented by the FFO zone, would allow for the subject property to remain viable for the production of forest products, as well as retain regulations that allow an array of farm-related uses that would enhance the current and future viability of the land for agricultural production.

Based on the findings above, staff concluded that the subject property is both agricultural and forest land. The proposed Farm/Forest PCCP designation, implemented by the FFO zone, would permit uses that are consistent with Polk County's Agricultural Land and Forest Lands goals and policies in the PCCP. The proposal conforms to the intent of relevant goals and policies in the PCCP and the purpose and intent of the Farm/Forest land use designation

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)]

A PCCP amendment from Agriculture to Farm/Forest does not require a goal exception if the corresponding zone designation is Farm/Forest with a Farm/Forest Overlay.⁵ The Application must, however, still be found in compliance with the Statewide Planning Goals and related Oregon Administrative Rules. For a PCCP amendment, the Transportation Planning Rule (TPR) still needs to be considered under Goal 12-*Transportation* (OAR 660-012-0070).

The Hearings Officer finds that the Application complies with criterion "C-2" (PCZO 115.050(A)(3)(b)).

(Compliance with Statewide Planning Goals)

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

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

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.⁶ The Polk County Hearings Officer conducted the initial hearing.⁷ The Polk County Board of County Commissioners will conduct its own hearing *de novo* prior to a final decision being rendered.⁸ This goal will be 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 agencies and special district plans and actions related to land use be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268. This goal also sets forth the procedures for taking an exception when resource lands are proposed to be put into a non-resource use.

No goal exception is required in this case because the applicant is seeking the Farm/Forest Overlay Zone, which will maintain the *additional provisions of the EFU zone for land divisions*,⁹ and the land is not being put into a resource use. Polk County's land use procedures and its PCCP

⁵ The F/F Overlay maintains an 80 acre parcel minimum.

⁶ PCZO 115.030(C).

⁷ PCZO 115.030(B).

⁸ PCZO 115.030(C).

⁹ Comprehensive Plan P. 68

and implementing ordinances have been determined to be in compliance with the Statewide Planning Goals. This goal is met.

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

When Polk County adopted its PCCP in compliance with the Statewide Planning Goals and submitted it to the Department of Land Conservation and Development (DLCD), the subject tract and all of the surrounding lands had an Agriculture PCCP designation. This area is a mixture of forestry and agriculture. Depending primarily on the topography, and individual owners objectives, either forestry or agriculture qualifies as suitable land uses.

The Applicant will continue the use of the subject property for commercial forest management. The Applicant also intends to maintain 50 acres in agriculture. This represents a long-term commitment to a mixed farm and forest use. Therefore, changing the PCCP Map of the Property into a Farm/Forest designation and rezoning it to Farm/Forest with a Farm/Forest Overlay will not change the use. This goal is met.

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

The identified soil types on the subject property make it suitable for growing trees commercially, and the property is already well stocked with timber. The addition of a small sawmill on the property will serve to maintain, enhance and promote the use of the property as a commercial forest. 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.

Currently none of the subject property is designated as open space, cultural, or historic by the PCCP, and the springs and wetlands on the subject property are being maintained and protected by ensuring adequate forest cover. The conservation easement which governs all land management on the subject property specifically stipulates that wetlands and riparian areas are to be protected above and beyond the rules set forth in the Oregon Forest Practices Act. The proposed mapping changes are not in conflict with Goal 5. This goal is met.

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

Forests are regulated by the Oregon Department of Forestry in order to ensure that air, water, and land resource qualities are maintained. The applicant will continue to follow the Oregon Forest Practices Act in terms of managing forests, and preserving air and water quality. This goal is met.

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

Polk County does not have an adopted landslide hazard map. However, steep slopes do exist on portions of the subject property, which range from nearly level up to 50 percent. The applicant maintains tree cover on all steep slopes for among other things to maintain erosion control. 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.

The wood products industry has always been a major player in Polk County's economy. Over the last decade however, demand for the traditional raw materials (construction lumber) has declined. To fill this void, wood products producers are looking more and more to niche and specialty markets that are remaining strong. There is significant demand for locally produced

hardwoods here in Oregon that is currently underserved. The applicant proposes to operate a small hardwood sawmill and sell local hardwood products to markets in the Willamette Valley. This would provide for both more jobs, as well as more economic development in Polk County. This goal is met.

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

There is currently one authorized dwelling, and the applicant is not seeking any additional dwellings. Therefore, this goal does not apply.

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

The existing dwelling is connected to a domestic well, and a septic tank and drain field. There is no anticipated increase in water needs in the future.

Oak Grove Road provides access to the subject property. That road is classified by Polk County as a minor collector. Two separate private access roads serve the residence and surrounding forest and farmland. With the addition of the small onsite sawmill operation, logs will be processed on site and transported out as lumber, thus there will be less log truck traffic on Oak Grove Rd. and little change in total traffic otherwise.

The subject property is in the Amity Rural Fire Protection District, and in addition the property owner has put additional firefighting measures in place with fire ponds, and private fire fighting equipment onsite. Law enforcement is provided by the Polk County Sheriff Department. The applicant does not need any public facilities or services beyond what is currently available. This goal is met.

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

Goal 12 is implemented by the Transportation Planning Rule (TPR) and the Polk County Transportation System Plan (TSP), which has been approved by the State as being in compliance with the TPR (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 PCCP 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.¹⁰

Those provisions are implemented by the Polk County Transportation System Plan, which allows PCCP and zone map amendments that may generate trips up to a planned capacity of the transportation system.¹¹ In determining that capacity, Polk County will consider road function, classification, road capacity, and existing and projected traffic volumes, as criteria for PCCP amendments.

As stated above, Oak Grove Road is classified by Polk County as a minor collector with current average traffic volume of 640 trips per day. The Polk County TSP defines a minor collector as a roadway intended to “*collect traffic from local road and bring all developed areas within reasonable distance of a collector road; and provide service to the remaining smaller communities; and link the locally important traffic generators with their rural hinterland.*”¹²

In reviewing the accident history of that road, there were 14 crashes reported from 2003-2007 with no fatalities.¹³ For the entire Polk County road system, a total of 674 crashes were reported

¹⁰ OAR 660-012-0060(1).

¹¹ Polk County TSP, p. 3-7.

¹² Polk County TSP, p. 5-2.

¹³ Polk County TSP, p. 9-7

during this same period of time. This number of crashes appears to be fairly typical of this type of road in Polk County with similar traffic volumes. The TSP does not identify any transportation deficiencies for this road and no future needed road improvements are identified. There will be no additional traffic on Oak Grove Rd. due to the proposed PCCP changes.

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

Oak Grove Road is operating under capacity.¹⁴ According to the recent traffic counts for this section of Oak Grove Road, the volume to capacity ratio is just 0.41. The proposed plan change and small sawmill operation will not significantly affect this ratio.

Goal 3 of the TSP, policy 3.2 states: "Polk County recognizes the importance of resource related uses such as agriculture and forestry to the local economy and the need to maintain a transportation system that provides opportunities for the harvesting and marketing of agricultural and forest products."¹⁵

Oak Grove Rd. is more than adequate for the existing and anticipated future needs of the forest and small sawmill operation. There is an estimated addition of 5 average daily trips resulting from the proposed small sawmill operation and this would pose no significant impact on the traffic patterns of Oak Grove Rd.

GOAL 13- Energy Conservation: To conserve energy.

The proposed small sawmill would utilize existing electrical infrastructure for the energy efficient operation of sawmill machinery. This goal is met.

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

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

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

Relevant Oregon Administrative Rule 660-006-0057: Rezoning Land to an Agriculture/Forest Zone. 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.

The subject property contains a current mix of both forest and agriculture uses, and the potential exists for increased agriculture production throughout the subject property. Currently there are 50 acres in agricultural production, consisting of either grass seed, or grazing. The subject property has potential for increased hay production, livestock grazing, and value added animal products. The subject property contains such a mix of both forest and agriculture, that neither Goal 3 nor Goal 4 can apply alone.

The Applicant stated it has demonstrated compliance with all Statewide Planning Goals, as required by the PCZO, Oregon Revised Statutes, and Oregon Administrative Rules in application of

¹⁴ October 5, 2010 email from Fred Lowe, Polk County.

¹⁵ Polk County TSP, p. 3-6.

the PCCP and Zone Map amendment.

In summary, the applicant is proposing a PCCP Map amendment from Agriculture to Farm/Forest and a Zoning Map amendment from EFU to FFO. These amendments would allow for the approval of conditional use permit application CU 12-09 for a permanent facility for the primary processing of forest products. The proposal would change the PCCP designation from Agriculture, which implements Goal 3, to Farm/Forest, which implements both Goals 3 and 4. The subject property is currently zoned EFU, which has an 80-acre minimum parcel size, and the applicant is proposing the FFO zone which also has an 80-acre minimum parcel size. Consequently, the applicant's proposal does not require an exception to any statewide planning goals.

As described throughout this staff report, the subject property is currently designated Agriculture and protected under Goal 3. The subject property is currently managed for forestry purposes and the applicant would like to gain the option to establish a sawmill on the subject property. The proposed Farm/Forest designation would implement both Goals 3 and 4. The FFO zone, which implements the Farm/Forest Plan designation and Goals 3 and 4, would allow for commercial forestry uses and farm uses on the subject property. Those uses would allow the applicant increased flexibility to use the subject property for the current primary use of the property as a commercial forest, and on-site forest product processing if CU 12-09 is approved. The FFO zone also permits commercial farm use and certain agriculturally related uses through an application process.

The applicant has addressed the applicable Statewide Planning Goals, and the Hearings Officer and staff agree with the applicant's conclusions. With respect to Goal 12, the objective of Goal 12 is to provide and encourage a safe, convenient and economic transportation system. Goal 12 is implemented by OAR 660-0012. OAR 660-012-0060(1) states:

If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule...

Staff and the Hearings Officer do not believe that a PCCP amendment from Agriculture to Farm/Forest, and the associated Zoning Map amendment from EFU to FFO would result in a significant change to a transportation facility as defined under OAR 660-012-0060(1). The subject property is accessed from Oak Grove Road, which in the location abutting the subject property, is a minor collector identified on Figure 3 of the *Polk County Transportation Systems Plan (TSP)*. If the proposed PCCP amendment and Zoning Map amendment are approved, the applicant would be able to establish the uses permitted in the FFO zone. The FFO zone permits those uses that are allowed in both the EFU and TC zones. The EFU zone is currently applied to the subject property. The uses that would be added to the currently allowed uses in the EFU zone by applying the FFO zone include an array of uses associated with forest management. Of these, some have the potential to increase the level of traffic that enters and exits the property. These include a permanent facility for the primary processing of forest products. Staff does not believe that the forestry uses added by the FFO zone would attract any more traffic than the uses that are already allowed in the EFU zone. The EFU zone permits uses such as a farm stand, winery, or commercial activity in conjunction with farm use. If established, those uses could attract traffic associated with the retail sales of farm products and processed farm products, such as wine. The Polk County Public Works Department indicated that they did not have concern about the proposed applications, and did not request a traffic impact analysis. Based on these factors, staff does not believe that applying the Farm/Forest PCCP designation and the Farm/Forest Overlay zone to the subject property would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant proposes a new access location to Oak Grove Road, or another county road, an access permit from the Polk County Public Works Department may be required.

As discussed above, the applicant has addressed all applicable Oregon Statewide Planning Goals. No goal exception is necessary in order to approve these applications. The Hearings Officer finds that the application complies with this criterion.

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

The subject property is not located within an urban growth boundary or within an incorporated city. As a result, no intergovernmental agreements are applicable to this application. This criterion is not applicable to the proposed amendment.

(Zone Change)

- A. A zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. [PCZO 111.140]**

The authorization for Zoning Map amendment is provided under PCZO 111.275. A zone change is subject to recommendation by the Hearings Officer after holding a public hearing pursuant to PCZO 111.190 and decision by the Polk County Board of Commissioners after holding a public hearing pursuant to PCZO 111.200. Planning Division staff reviewed the proposed zone change, and prepared a report and recommendation for the Hearings Officer. The Hearings Officer must make 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]

The Farm/Forest zone is the corresponding zone to the Farm/Forest PCCP designation. The purpose of this zone is to provide “*for the full range of agricultural and forest uses while providing for the maximum property tax benefits that are available.*”¹⁶ Not only is the proposed zone consistent with the land use activities on the subject property, but that designation will also allow the applicant to develop a small sawmill operation. The applicant views the sawmill as an integral component to the timber management operation at this location.

¹⁶ PCZO 138.010.

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

Applicant believes that a change in the PCCP from Agriculture to Farm Forest would automatically necessitate this proposed zone change from Exclusive Farm Use (EFU) to Farm Forest Overlay (FFO). The application complies with criterion “a” (PCZO 111.275 (A)).

As described in Section 4 of the PCCP, the Farm/Forest 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 EFU, which has an 80-acre minimum parcel size. The EFU zone and FFO zone have the same minimum parcel size, so zoning the subject property FFO would not allow for additional parcel density beyond what is currently permitted. The uses in the FFO zone have already been determined to be consistent with the Farm/Forest PCCP designation, and the current management of the subject property for forestry and agricultural purposes demonstrates that the subject property is suited to be used consistently with the Farm/Forest 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.

The Farm/Forest 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.”¹⁷

While a majority of the subject property will be forest land, a portion will be maintained as agricultural land. The Farm/Forest zone allows for both types of land management activities. Hence, applicant argues, the Application complies with criterion “b” (PCZO 111.275 (B)).

The applicant has proposed a zone change from EFU to FFO. The proposed FFO zone allows

¹⁷ PCZO 138.010.

“farm use” and “use and management of forest lands” as outright permitted uses. The subject property is currently managed for forestry, with some interspersed agricultural use. Those uses would remain outright permitted if the proposed zone change is approved. The subject tract contains approximately 1,273 acres. According to the applicant approximately 1,218 acres of the subject property are in timber production, 50 acres are in agricultural crops or pasture, and 5 acres are used as a home-site and proposed for sawmill development. The FF zone is designed to “provide for the full range of agricultural and forest uses for such lands.” As discussed in this report, the subject property is currently zoned for agricultural use, contains existing agricultural uses, and has vineyard potential with its location in the Eola-Amity Hills AVA. The subject property contains an actively managed commercial forest. It would therefore be appropriate for the subject property to have available the “full range of agricultural and forest uses” that are permitted under Goals 3 and 4.

The subject property is bordered to the north by approximately 2650 acres of contiguous land that is designated Farm/Forest on the PCCP map and zoned either FF or FFO. The applicant’s proposal would create a logical extension of that block of FF/FFO zoning to the south.

In consideration of the above factors, the Hearings Officer and staff concur in finding that the subject property complies with the purpose statement of the FF and FFO zone.

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

The adjacent area is comprised of a mixture of farming and forestry activities. As previously noted all surrounding lands are designated as agricultural, farm forest, or public land on the PCCP Map and as Exclusive Farm Use, Farm Forest, or Public on Polk County’s zoning map. The subject property is located in the Eola Hills. The neighboring properties to the west are on flat agricultural land and are managed for crop production. The properties to the north are in agriculture, forest land, or vineyards. The properties to the east are in agriculture, forestland, or for public use in the case of the Oregon 4-H Center which shares one of the longer common boundaries with the subject property. Property to the south is in agriculture, primarily Christmas trees. The uses permitted in the Farm/Forest zone are consistent with this type of rural land use pattern. Forestry in particular imposes very little if at all on neighboring properties. Therefore, the proposed designation will not adversely impact allowed uses on adjacent lands.

The Hearings Officer finds that the application complies with criterion “c” (PCZO 111.275(C)).

The applicant is proposing a zone change of the subject property from EFU to FFO. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. Based on a review of the 2008 Polk County aerial photograph, contiguous properties are used for a mix of agricultural and forest uses. A property to the east is owned by the Oregon 4-H Foundation and contains a youth camp. Neighboring properties to the north are zoned FF, properties to the west and south are zoned EFU, and properties to the east are zoned Public and Private Educational Facilities (PE) and EFU.

The primary changes to the uses permitted on the subject property that would result if this application is approved is that the FFO zone permits through an application process several uses that support commercial forestry operations that are not allowed in the EFU zone. These uses include a permanent facility for the primary processing of forest products, logging equipment and repair facilities, and log scaling and weigh stations. The applicant has applied to establish a sawmill under the standards for a permanent facility for the primary processing of forest products on the subject property. That application, CU 12-09, is contingent on the approval of the proposed PCCP Map amendment and zone change. Based on a review of the Polk County zoning map, all properties contiguous to the subject property, except one, are zoned EFU or FF. The uses that would be permitted on the subject property through implementation of the FFO zone are similar in nature to the existing uses permitted in the EFU zone. Forest processing facilities, for example, have the potential to create dust, noise, and traffic impacts; however, staff anticipates that these would be comparable to the negative externalities created by a farm product processing facility allowed in the

EFU zone. In addition, the majority of the new uses that could be authorized in the FFO zone require review and approval through a conditional use application process. One criterion for the conditional use permit requires that an applicant demonstrate that the new use will not “force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.” This criterion requires an applicant to demonstrate how their specific proposal would be designed to minimize impacts on surrounding farm and forest uses. The conditional use review process may result in conditions that are intended to minimize off-site impacts of the proposed operation. Staff has not found any evidence to suggest that zoning the property FFO would have a negative affect on the Oregon 4-H Foundation property zoned PE to the east.

In total, the uses permitted in the FFO zone would not significantly adversely affect allowed uses on adjacent lands because the FFO zone allows the uses in the EFU zone, which are the same as those uses allowed on neighboring properties. The FFO zone allows the uses in the TC zone, which include an array of resource uses that would have similar offsite impacts as neighboring EFU zoned properties. Based on the information provided by the applicant and the staff conclusions, the Hearings Officer finds that the application complies with this criterion.

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

The Application will not create a greater demand on any public facilities, services, or the transportation network since the proposed activities will use no additional water, and no increase in police or fire infrastructure services.¹⁸ The dwelling structure on the property is served by a domestic well and Amity Rural Fire Protection District. Funding for district services are collected through tax assessments. The Polk County Sheriff’s Department provides emergency services to the Property. Funding for those services is provided through property taxes paid to Polk County.

In summary, no additional dwellings are proposed. The sawmill is expected to eventually employ up to two persons. Existing toilet and domestic water facilities are adequate. The applicant is proposing to change the zoning of the subject property from EFU 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 and industrial development is largely restricted to activities in conjunction with farm use on the subject property. The need for public facilities by the uses permitted in the FFO zone is substantially the same as the uses in the EFU zone. The minimum parcel size is 80 acres in both the EFU and FFO zone, so this zone change would not result in higher parcel density on the subject property.

The subject property is accessed from Oak Grove Road, which in the location abutting the subject property, is a minor collector identified on Figure 3 of the TSP. If the proposed PCCP amendment and zoning map amendment are approved, the applicant would be able to establish the uses permitted in the FFO zone. With limited exceptions, the FFO zone permits those uses that are allowed in both the TC and EFU zones. The uses that would be added to the currently allowed uses in the EFU zone by applying the FFO zone include uses that have the potential to attract traffic to the property. However, the uses that are currently permitted on the subject property 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 or through the processing of farm products, such as wine. The TC zone arguably permits fewer high traffic uses, but it does permit a permanent forest product processing facility through a conditional use application process. Such a use depending on the size of the operation could also produce high levels of traffic. The Public Works Department indicated that they did not have concern about the proposed applications, and did not request a traffic impact analysis. Based on these factors, staff does not believe that applying the Farm/Forest PCCP designation and the Farm/Forest Overlay zone to the subject property would result in a significant impact on area transportation facilities as that term is used in OAR 660-012-0060. If the applicant

¹⁸ See Exhibit A, p.p. 3-4.

proposes a new access location to Oak Grove Road, or another County road, an access permit from the Polk County Public Works Department would be required.

The subject property is rural in nature, and regardless of whether the property is zoned EFU or FFO, use of the property may be limited by water availability and the suitability of the soils to provide on-site wastewater disposal. A portion of the subject property is located in the area served by the Perrydale Domestic Water Cooperation; however, that is no guarantee of water availability. 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 subject property is located in the Southwest Polk RFPD, Amity RFPD, Spring Valley RFPD, and the Polk County Sheriff Department provides emergency services to 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. 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 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 applicant would be required to obtain all necessary local, state, and federal permits for the sawmill and any other use that is established on the subject property.

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

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

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

A PCCP change to Farm/Forest with a Farm/Forest Overlay zone is consistent with the density and pattern of development in this area. While the immediate surrounding properties are still predominately zoned EFU in reality the land usage in this area is a mixture of varying types of resource based uses, with scattered rural residences, predominately along Oak Grove Road.

As discussed above, based on a review of the 2008 Polk County Aerial Photograph, the subject property is surrounded by properties used for a mix of agricultural and forestry purposes. The FFO zone allows for an array of uses. The FFO zone allows both the uses permitted in the current EFU zone and the TC zone. Neighboring properties to the north are zoned FF, so if these applications are approved, the property could be used for the same uses as those properties. Properties to the west, south, and east are zoned EFU. One property to the east is zoned PE. The externalities created by the FFO zone, which permits resource based activities, would be substantially the same as the EFU zone, and staff has not identified any new potential conflicts that would arise by zoning the property FFO. Due to the similar nature of the uses permitted in the FFO zone and the EFU zone, staff finds that the proposed FFO zoning would be compatible with surrounding land uses located on those EFU zoned properties. The FFO zone has an 80-acre minimum parcel size, which is the same as the EFU zone. The proposed zoning would be consistent with the density and pattern of development in the area.

The subject property has been managed predominantly for forestry purposes since 1985. In 2006 the Eola-Amity Hills AVA was created and includes the subject property. The subject property contains a mixture of farming and forestry uses, and maintains potential for wine grape production. These factors support a zone change to the FFO zone.

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)]

As has already been stated above, this application complies with relevant Oregon Revised Statutes and the applicable Statewide Planning Goals and Oregon Administrative Rules, including the Transportation Planning Rule. No goal exception is required because the Farm Forest Overlay zone will maintain the 80-acre minimum parcel size.

The applicant is proposing a zone change from a resource zone (EFU) that implements Goal 3 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 forestry and farm uses to be continued and developed on the subject property. As discussed in the findings 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(G)]

The subject property has frontage along Oak Grove Road, a minor collector, as designated in the Polk County Transportation Systems Plan, Figure 3. The applicant is proposing a PCCP amendment and Zoning Map amendment from one resource zone to another. The applicant indicated that their proposed sawmill would generate approximately five vehicle trips per day if these applications are approved. The Public Works Department indicated that they did not have concern about the proposed applications, and did not request a traffic impact analysis.

(Conditional Use)

A. Permanent Facility for the Primary Processing of Forest Products [OAR 660-006-0025(4)(a)], subject to compliance with Sections 138.100(A) and (B). [PCZO 138.060(A)]

The request is for a Permanent Facility for the Primary Processing of Forest Products. This small (less than 50,000 bf/year) sawmill facility would process logs into lumber. The facility would include a log yard, a collection of primary breakdown machines; sawmill, resaw, edger, planer, and a small (<5,000 bf) dry kiln. This facility would utilize an existing agricultural building as well as 2 open air sheds for lumber storage.

B. GENERAL REVIEW STANDARDS [OAR 660-033-0130(5) and OAR 660-006-0025(5)]. To ensure compatibility with farming and forest activities, the Planning Director or hearings body shall determine that the proposed use meets the following requirements:

- 1. The 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)

As is already stated above, the proposed use would only help to support the existing use of commercial timber production. By being able to process logs onsite, a greater return on investment is available to the owners by selling lumber instead of logs, as well as significant increases in efficiency, by being able to process logs onsite.

In addition, this proposed use would not interfere with either forest, or farming practices on neighboring lands. The proposed sawmill is located completely within the subject property. It is over one-third of a mile (1,500') to the nearest neighboring property. There would be no chance of any noise, dust, or other potentially adverse condition from the sawmill operation to affect a neighboring property. There would be a minor change in traffic on Oak Grove Road that serves the subject property. Fewer log trucks would be using the road, as a greater portion of the logs harvested in the forest would be processed onsite. In turn there would be a slight increase (5 trips per day) in other vehicle traffic on Oak Grove Road. This would consist of the commuting of employees, as well as small trucks hauling lumber. Since Oak Grove Rd. is currently operating well under capacity (volume to capacity ratio of 0.41), this would pose no significant adverse affect on neighboring farming and forestry practices.

The applicant is proposing to operate a permanent facility for the primary processing of forest products – a sawmill. According to the applicant, the sawmill would process less than 50,000 board feet per year. A board foot is a unit of volume for measuring lumber that is one foot in length by one foot in width by one inch thick. The sawmill would utilize an existing agricultural structure and two additional accessory structures. As described by the applicant, aspects of the timber processing would occur both indoors and outdoors.

Staff concurs with the conclusions by the applicant. Based on the plot plan submitted with the application, Attachment B of the staff report. The proposed sawmill would be located approximately 1200 feet from the neighboring property to the west, which is the closest neighbor. The subject tract has frontage along Oak Grove Road, and the applicant anticipates a small increase of five vehicle trips per day to Oak Grove Road. The applicant does anticipate that log truck traffic would decline as a result of on-site processing. Based on the proposal submitted by the applicant, the proposed use would not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

Based on the evidence submitted in the record, the applicant's proposal would result in only a minor increase in traffic to the property. The applicant indicates that the daily number of vehicle trips would increase by approximately five vehicle trips. This number of vehicle trips is consistent with a typical property managed for resource purposes. As a general condition of approval, staff recommended that a condition of approval require that the applicant obtain all necessary access permits needed to access the subject property. A new or amended access permit may be required from the Polk County Public Works Department.

PCZO Chapter 112 contains development standards that would apply to the proposed use with respect to parking areas, loading areas, and structural setbacks. Those development standards would assist in minimizing the offsite impacts of the proposed sawmill. As required by PCZO Chapter 112, the applicant shall maintain off-street automobile parking areas and off-street loading areas to serve the uses present on the subject property. PCZO 112.250(DD) provides parking standards for manufacturing establishments. A manufacturing establishment that is smaller than 50,000 square feet must provide one parking space per each 5,000 square feet or one space per employee, whichever is greater. PCZO 112.260(B)(1) requires that one loading space of 12 feet wide, 30 feet long and 14 feet high shall be provided for the first 2,000 square feet of floor area, and one additional loading space for each additional 40,000 square feet of floor area or any portion thereof. Parking and loading areas shall be surfaced in gravel, asphalt or concrete, as required by PCZO 111.270(B). The property owner shall provide sufficient on-site parking and meet all other applicable parking standards set forth in PCZO Chapter 112. The applicant shall provide additional parking or loading spaces as needed. As a condition of approval, the applicant would be required to meet the standards for parking prior to the operation of the proposed sawmill.

The applicant would also be required to comply with the setback standards of the FFO zone for all buildings and structures. Those setbacks are listed in PCZO 112.430(B) and require a 30-foot front yard setback and a 20-foot side and rear yard setback.

Staff recommended a condition of approval that requires the proposed sawmill to be located substantially in the location proposed in the application (Attachment B of the staff report). In addition, the traffic impacts associated with the sawmill that were projected by the applicant was for a “small (less than 50,000 bf/year) sawmill facility.” Staff recommended a condition of approval that limits the lumber production volume of the sawmill to 50,000 board feet per year. This would help to ensure that the offsite impacts of the sawmill are consistent with what was reviewed in this application. With that condition, if the applicant would like to produce at higher levels at some point in the future, the applicant would be required to obtain a new conditional use authorization.

With those conditions, the Hearings Officer finds that the application complies with this criterion.

2. The use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; [PCZO 138.100(B)]

The fire risk is quite low for the addition of the proposed small sawmill operation, in part due to the fact that machinery would almost exclusively be run on electricity, thereby eliminating the risk of sparks from internal combustion engine equipment. The applicant has adequate private firefighting equipment, and extensive wildland firefighter training in order to deal with the unlikely event of a fire. The property contains 4 year-round ponds located in each quadrant of the property with vehicle access for firefighting purposes. In addition there is a 20,000-gallon water reservoir at the house and shop, located directly adjacent to the proposed sawmill facility. All of these water sources are accessible and readily available for firefighting needs.

In summary, the applicant is proposing to establish a sawmill within a large forest tract that is owned and managed by the applicant. The applicant clearly has a financial incentive to operate their mill and forestry practices in order to minimize loss from wildfire. The applicant has listed best management practices that would be employed in order to protect the facility and surrounding area from fire. The applicant indicates that a 20,000-gallon water reservoir is located in proximity to the proposed sawmill location and would be available for fire suppression. As proposed in the application, staff recommends that condition of approval require the applicant to maintain a 20,000-gallon water reservoir that is accessible for fire protection of the proposed sawmill facility.

OAR 660-006-0035(3) requires a minimum of 30-foot primary fuel break and 100-foot secondary fuel break around all new buildings and structures established in the FFO zone. See Attachment G of the staff report. A condition of approval that requires these fuel breaks to be established around all buildings and structures used by the sawmill would act to reduce the possibility of a fire generated by the sawmill to spread to the surrounding forest. In order to ensure that fire fighting personnel can reach the sawmill and that vehicles have adequate space to turn around and pass each other on the private road that accesses the sawmill, staff recommended that a condition of approval require that the road that accesses the sawmill be built to the “Polk County Standards for Private Roads Serving Dwellings in Forest Zones.” See Attachment H of the staff report. The applicant shall comply with all other applicable sections of PCZO Sections 138.100 and 138.120.

The proposed sawmill would be located within the Amity Rural Fire Protection District (RFPD). Amity RFPD was notified of this proposal, and as of the writing of this order had not provide written comments.

With the above-mentioned conditions of approval, staff and the Hearings Officer concur in find that the application complies with this criterion.

C. FINDINGS OF THE HEARINGS OFFICER OR PLANNING DIRECTOR. Before granting a conditional use, the Hearings Officer or Planning Director shall determine:

1. **That he or she has the power to grant the conditional use. [PCZO 119.070(A)]**
2. **That such conditional use, as described by the applicant, will be in harmony with the purpose and intent of the zone. [PCZO 119.070(B)]**
 - a. **PURPOSE 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. [PCZO 138.010]

As stated above, the Hearings Officer has authority to grant the application.

As stated in PCZO 138.010, the Farm/Forest Zone is meant to allow a myriad of different uses related to both agricultural and forestry, so long as these uses are not adverse to accepted farm and forestry practices. In this case, a small sawmill operation would not be adverse to the accepted and long standing history of commercial forestry use on the subject property. The sawmill occupies only one-tenth of one percent of the property. Access to the sawmill is on an established private gravel forest road, already used by log trucks and heavy machinery.

In addition to not adversely affecting the established forestry practices on the subject property, this sawmill would help to sustain and augment the existing commercial forestry operation. The ability to add value to these forest products, by processing logs onsite, will increase the revenue and long term financial stability of the commercial forestry operation. This sawmill will focus on processing hardwoods, primarily Oregon White Oak and Big Leaf Maple. These two species are undervalued in the current timber industry. By increasing the value of the species, the sawmill, will help diversify and strengthen the forestry operation on the subject property.

The purpose and intent of the Farm/Forest Overlay zone is the same as the Farm/Forest Zone. As stated in PCZO 138.010, “[t]he 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.” The proposed sawmill would support an existing forestry operation, and allow that forestry operation to derive greater economic benefit from processing timber and selling lumber. The proposed sawmill would be relatively small, and be located in an existing, cleared opening in the forest.

Staff and the Hearings Officer concur in finding that the proposed sawmill would be consistent with the purpose and intent of the Farm/Forest Overlay Zoning District.

3. **That such conditional use, as described by the applicant, complies with any specific provisions for such a use as provided by the zone or by Section 119.150. [PCZO 119.070(C)]**

There are no special provisions for a permanent facility for the primary processing of forest products identified in PCZO 119.150. The applicable review and decision criteria are listed above.

4. **That the imposition of conditions is deemed necessary for the public health, safety or welfare, or to protect the health or safety of persons working or residing in the area, or for the protection of property or improvements in the neighborhood. [PCZO 119.070(D)]**

If this application is approved, staff recommended the following conditions of approval in order to protect the public health, safety and welfare of those working and residing in the area. As stated above, the property owner shall provide sufficient on-site parking as required by PCZO Chapter 112. The applicant shall provide additional parking or loading spaces as needed.

The applicant indicates that the proposed sawmill would utilize an existing agricultural building and two, open-air sheds. Based on the information submitted by the Polk County Building Division, staff does not have records of permits having been issued for an accessory structure located in the proposed sawmill location. As such, staff recommends a condition of approval requiring that the applicant obtain all necessary building permits for the structures that would be used for the proposed sawmill.

Prior to establishing the sawmill on the subject property, the property owner shall obtain all necessary local, state, and federal permits. These permits may include, but are not limited to building, electrical, and plumbing permits from the Polk County Building Division; septic construction permits from the Polk County Environmental Health Division, and a new or amended access permit from the Polk County Public Works Department. The property owner shall provide a copy of all required permits and/or licenses to the Polk County Planning Division for inclusion in the record for CU 12-09.

The Hearings Officer, Planning Director, or Board of Commissioners may rescind any conditional use permit granted under the conditional use ordinance if it is ascertained that the application contains any false statements. In case of such rescission, the matter may be referred to County Counsel for an opinion. In such case, it shall be unlawful for any person to exercise any right granted by the Hearings Officer, Planning Director, or the Board of Commissioners pursuant to such application [PCZO 119.140].

PCZO 119.100 states that discontinuance of the exercise of any right heretofore or hereafter authorized for any conditional use for a continuous period of six months shall be deemed an abandonment of such conditional use.

With the above mentioned conditions of approval, staff and the Hearings Officer concur in finding that the application complies with this criterion.

D. All new dwellings and structures authorized under Sections 138.080(B) and 138.090(B)(1) are subject to the siting standards in this Section. Relevant physical and locational factors including, but not limited to, topography, prevailing winds, access, surrounding land use and source of domestic water shall be used to identify a the building site which:

1. **Has the least impact on nearby or adjacent lands zoned for forest or agricultural use; [PCZO 138.110(A)(1)]**
2. **Ensures that forest operations and accepted farming practices will not be curtailed or impeded; [PCZO 138.110(A)(2)]**
3. **Minimizes the amount of forest lands used for the building sites, road access**

- and service corridors; and [PCZO 138.110(A)(3)]
4. **Consistent with the provisions of Section 138.120 minimizes the risk associated with wildfire.** [PCZO 138.110(A)(4)]
 5. **Is consistent with other requirements contained in the Comprehensive Plan or implementing ordinances, including but not limited to regulations which apply to flood hazard areas, development within the Willamette River Greenway, development in forested areas or development in significant resource areas, such as riparian or big game habitat.** [PCZO 138.110(A)(5)]
- E. The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.** [PCZO 138.110(B)]
- F. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.** [PCZO 138.120(A)]
- G. Road access to the structure shall meet the County road design standards.** [PCZO 138.120(B)]
- H. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney.** [PCZO 138.120(E)]
- I. The applicant shall obtain an address from the County, and shall display that number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs.** [PCZO 138.120(F)]
- J. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry [See Attachment G].** [OAR 660-006-0035(3)].

This proposed use must also comply with **PCZO 138.110. GENERAL SITING STANDARDS FOR DWELLINGS AND STRUCTURES.** There are no new dwellings proposed in conjunction with this conditional use application. The only additional structures proposed would be two open air sheds consisting of a roof and no walls for the storage of lumber. In addition, an existing agricultural building would house a planer and be used for additional lumber storage. All of these buildings are located in an existing clearing on a flat hilltop with existing road access. This location is served by a domestic well, which is completely adequate for the small amount of water that the sawmill operation would require.

This use must also comply with **PCZO 138.120. FIRE SITING STANDARDS FOR DWELLINGS AND STRUCTURES.** As stated above, there is a reservoir of 20,000 gallons onsite with access for firefighting and pumping equipment. Existing firefighting equipment

includes a brush rig/water wagon for forest fire fighting. This vehicle is stocked with hand tools and fire extinguishers.

All of the existing and proposed structures have adequate primary and secondary fire breaks surrounding them that meet the above standards. The proposed sawmill is located in the Amity RFPD. Both the Rickreall RFPD, and Spring Valley RFPD serve other portions of the subject property. The property owners maintain good relations with all three protection districts, and is currently in the process of planning a training exercise with the Amity RFPD, in order to familiarize the department with both the private forest road system as well as the ponds and reservoirs located throughout the property.

In summary, the applicant is proposing to establish a permanent sawmill that would utilize an existing agricultural building and two open air sheds. Based on the statement by the applicant and a review of the 2008 Polk County aerial photograph, the sawmill would be located on an existing clearing and use existing road access. OAR 660-006-0035(3) requires the applicant to:

...maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry.

Those standards require a minimum 30-foot primary safety zone (fuel break) and an additional secondary fuel break of at least 100 feet in all directions around the primary fuel break. See Attachment G of the staff report. The primary and secondary fuel break distances may need to be increase if the structure(s) is located on a slope according to the standards listed in Attachment G of the staff report. As stated by the Oregon Department of Forestry, the goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. The secondary fuel break is intended to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. The fire break standards in OAR 660-006-0035(3) are more restrictive than PCZO 138.120(C) and (D); therefore, staff must apply the OAR. The proposed mill site would be setback in excess of 1100 feet from the nearest property line, so the applicant would be able to manage the primary and secondary fuel break surrounding the proposed sawmill location. The proposed location would be a substantial distance from the nearest neighbor, and staff has not found reason to believe that it would have any significant off-site impacts to surrounding properties managed for forestry and/or agricultural purposes.

The proposed sawmill would be located adjacent to a dwelling with the address of 4550 North Oak Grove Road, Rickreall, OR. With respect to PCZO 138.120(F), staff recommends that a condition of approval require that the driveway to the sawmill be marked as described in PCZO 138.120(F).

Staff recommended that a condition of approval require that the proposed sawmill be located substantially in the location proposed by the applicant and depicted on the plot plan (See Attachment B of the staff report). In addition, the above cited requirements of PCZO 138.110(B) and PCZO 138.120(A), (B), and (E) should be listed as conditions of approval. As required by OAR 660-006-0035(3), the applicant should be required to construct a 30-foot minimum primary fuel break and an additional 100-foot minimum secondary fuel break as described in the "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry. See Attachment G of the staff report.

With these conditions of approval, staff and the Hearings Officer find that the application complies with this criterion.

CONCLUSION AND RECOMMENDATION

Based on the information submitted into the record, and the findings presented above, staff and the Hearings Officer recommend that the Board of Commissioners approve applications PA 11-

01, ZC 11-02, and accept the Hearings Officer's approval of CU 12-09. Future development on the subject property would be subject to the use and development standards listed in the PCZO. These include the standards for the Farm/Forest Overlay zone listed in PCZO Chapter 138.

(Condition of Approval for PA 11-01 and ZC 11-02)

1. Applications Plan Amendment PA 11-02 and Zone Change ZC 11-02 were evaluated concurrently, and approval of each application shall be dependent upon approval of the other. Therefore; both applications must become effective in order to implement this approval.

(Conditions of Approval for CU 12-09)

1. Approval of CU 12-09 shall be dependent on approval of PA 11-01 and ZC 11-02.
2. The proposed permanent facility for the primary processing of forest products (sawmill) shall be located substantially in the location proposed on the applicant's plot plan included as Attachment B of the staff report.
3. The proposed sawmill shall be limited in lumber production volume to 50,000 board feet per year.
4. All buildings and structures used by the sawmill shall comply with the setback standards of the FFO zone listed in PCZO 112.430(B).
5. The applicant shall provide evidence consistent with OAR 660-006-0029(A), that the domestic water supply, if any, is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class F stream as defined in the Forest Practices Rule (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the subject property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. [PCZO 138.110(B)]
6. If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream, or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. [PCZO 138.120(A)]
7. Road access to the structure shall meet the County road design standards (Attachment H of the staff report). [PCZO 138.120(B)]
8. No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney. [PCZO 138.120(E)]
9. The applicant shall display their address number in a location on the property that is clearly visible from the road used as the basis for numbering. The numbers shall not be less than three inches in height, in a contrasting or visible color and shall comply with all other applicable standards for signs. [PCZO 138.120(F)]
10. The property owner shall establish primary and secondary fuel breaks around all buildings and structures used by the sawmill as described in the "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, and published by the Oregon Department of Forestry included as Attachment G to the staff report. [OAR 660-006-0035(3)]
11. Prior to operating the sawmill on the subject property, the property owner shall obtain all necessary local, state, and federal permits. These permits may include, but are not limited to building, electrical, and plumbing permits from the Polk County Building Division; septic construction permits from the Polk County Environmental Health Division; and a new or amended access permit from the Polk County Public Works Department. The property owner shall provide a copy of all required permits and/or licenses to the Polk County Planning Division

for inclusion in the record for CU 12-09.

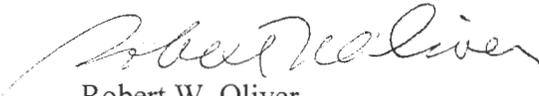
12. Off-street automobile parking areas and off-street loading areas shall be provided and maintained as required by PCZO 112.250 through 112.270. The applicant shall provide additional parking and/or loading spaces as needed.
13. Discontinuance of the sawmill for a continuous period of six months shall be deemed an abandonment of such conditional use. This conditional use authorization would then become null and void.

ORDER; EFFECTIVE DATE; APPEAL

In view of the findings and conclusions set out above, and subject to the condition of approval stated above, application 12-09 for a conditional use on the subject property hereby is APPROVED. However, this approval does not take effect until the effective date of the final local decision, and all appeals of such decisions, approving applications PA 11-01 and ZC 11-02.

This order regarding CU 12-09 may be appealed in the manner provided by law and ordinance. **TIME IS OF THE ESSENCE IN FILING SUCH AN APPEAL!** The Planning Division staff cannot assist in preparation of an appeal, but will provide information on how such an appeal may be made.

Dallas, Oregon, December 10th, 2012.



Robert W. Oliver

Polk County Hearings Officer

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The Department of Land
Conservation and Development
Plan Amendment Specialist
635 Capital Street NE, STE 150
Salem, OR 97301

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JAN 28 2013

LAND CONSERVATION
AND DEVELOPMENT