



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

3/15/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment
DLCD File Number 001-08

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, March 26, 2010

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

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

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

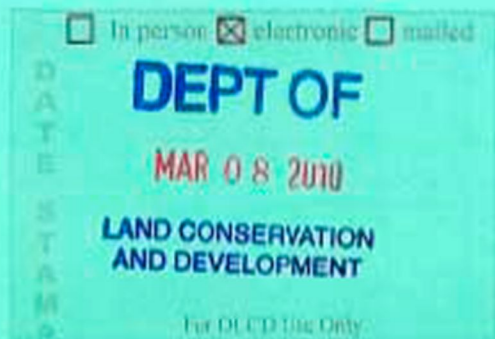
Cc: Jerry Sorte, Polk County
Jon Jinings, DLCD Community Services Specialist

Gary Fish, DLCD Regional Representative

<paa> YA/I

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 08-01 & ZC 08-01**

Date of Adoption: **3/3/2010**

Date Mailed: **3/5/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **2/27/2008**

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".

Comprehensive plan map amendment from Unincorporated Community Residential to Unincorporated Community Commercial and a zoning map amendment from Acreage Residential 5-Acre Minimum (with limited uses) (AR-5) to Rickreall Unincorporated Community Commercial (Rickreall UC-C). These amendments were adopted for an approximately 3.37-acre parcel.

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

Plan Map Changed from: **UCR**

to: **UCC**

Zone Map Changed from: **AR-5 (with limited uses)**

to: **Rickreall UC-C**

Location: **300 Main Street, Rickreall, Oregon**

Acres Involved: **3**

Specify Density: Previous: **5 acres**

New: **No 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**

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. 001-08 (16732) [16035]

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

ODOT, Southwest Polk RFPD

Local Contact: Jerry Sorte

Phone: (503) 623-9237 Extension:

Address: 850 Main Street

Fax Number: 503-623-6009

City: Dallas

Zip: 97338

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

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

7 In the Matter of Plan Amendment PA 08-01)
8 And Zone Change ZC 08-01 on a 3.4-Acre Parcel)
9 Zoned Acreage Residential 5-Acre Minimum with)
10 Limited Uses at Township 7S, Range 4W, Section)
11 30CA, Assessment Map Tax Lot 100)
12

13 **ORDINANCE NO. 10-01**
14

15 **WHEREAS**, the Board of Commissioners held a public hearing on February 17, 2010 with due
16 notice of such public hearing having been given, and provided an opportunity for public comments and
17 testimony; and
18

19 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
20 Amendment 08-01 and Zone Change 08-01 from the Polk County Hearings Officer based upon his public
21 hearing and conclusions; and
22

23 **WHEREAS**, the Board of Commissioners received a recommendation in support of Plan
24 Amendment 08-01 and Zone Change 08-01 from Polk County Planning staff based upon the findings and
25 evidence in the record; and
26

27 **WHEREAS**, the Board of Commissioners on February 17, 2010, publicly deliberated and
28 unanimously passed a motion to approve Plan Amendment 08-01 and Zone Change 08-01; now,
29 therefore:
30

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

33 Sec. 1 That Polk County adopts the findings for Plan Amendment 08-01 and Zone Change 08-
34 01 located in the Hearings Officer's recommendation as shown on Exhibit C.
35

36 Sec. 2 That Polk County amends the Polk County Comprehensive Plan Map for the subject
37 parcel from Unincorporated Community Residential to Unincorporated Community Commercial as
38 shown on Exhibit A.
39

40 Sec. 3. That Polk County amends the Polk County Zoning Map for the subject parcel from
41 Acreage Residential-5 Acre Minimum (AR-5), with uses restricted to education, ministry, and religious
42 outreach activities, to Rickreall Unincorporated Community Commercial as shown on Exhibit B, subject
43 to the following conditions identified in the Hearings Officer recommendation:
44

- 45 A. Prior to development of the subject property, the property owner shall obtain all necessary
46 federal, state, and county permits, prior to release of building permits. These permits may
47 include, but are not limited to the following: planning permits from the Polk County Planning
48 Division; building, electrical and plumbing permits from the Polk County Building Division,
49 septic installation permits from the Polk County Environmental Health Division, and an
50 access permit from the Oregon Department of Transportation (ODOT) or the Polk County
51 Public Works Department.
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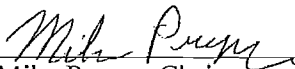
B. Any development that occurs on the subject property shall be established in accordance with the provisions for development within the Rickreall Unincorporated Community Commercial Zone as required in PCZO Chapter 112. Required setbacks are listed in PCZO 112.400(B).

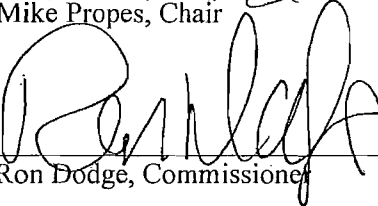
C. If water is provided by a community water system, a "Statement of Water Availability" shall be submitted prior to building permit issuance. The applicant shall comply with all applicable state and federal water laws.

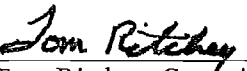
Sec. 4. An emergency is declared, and the provisions of this ordinance become effective upon its adoption.

Dated this 3rd day of March 2010 at Dallas, Oregon.

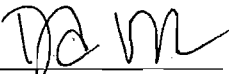
POLK COUNTY BOARD OF COMMISSIONERS


Mike Propes, Chair


Ron Dodge, Commissioner


Tom Ritchey, Commissioner

Approved as to form:


David Doyle
County Counsel

First Reading: _____

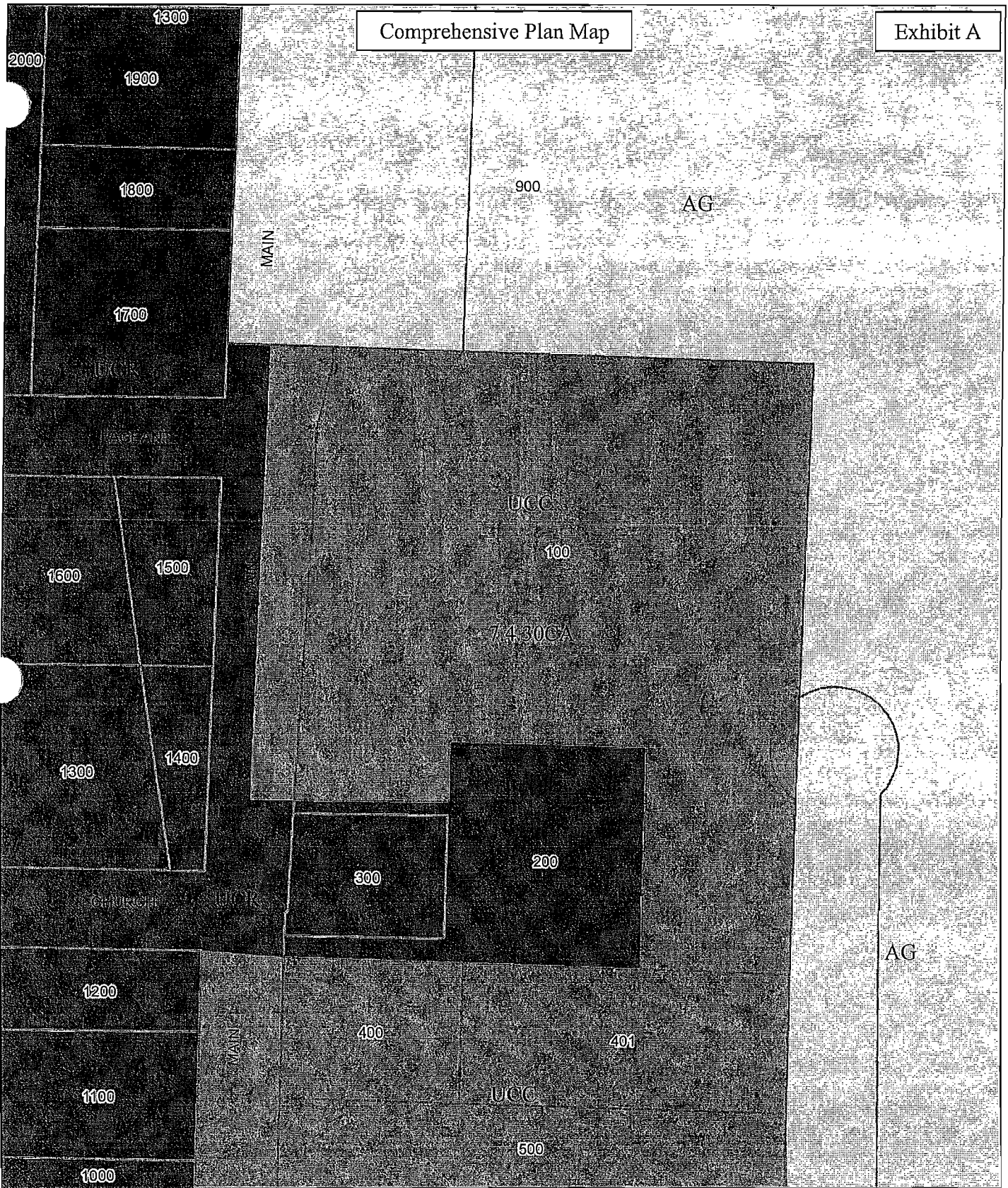
Second Reading: _____

Recording Secretary: _____

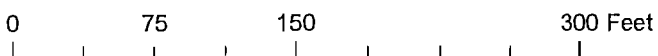
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Comprehensive Plan Map

Exhibit A



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

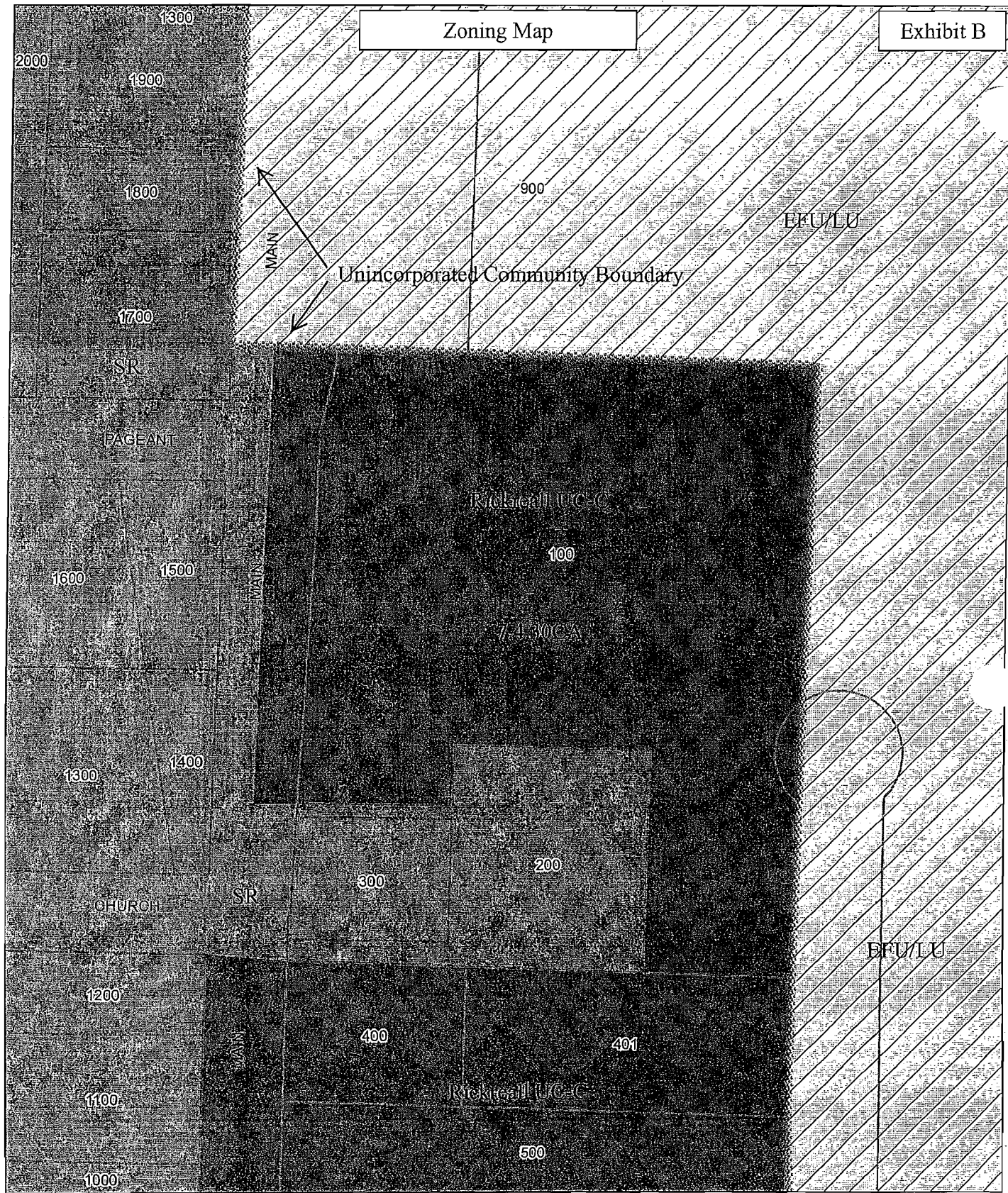


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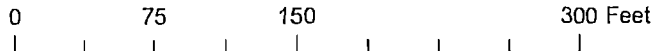
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10-8	10-7	10-6	10-5		

Zoning Map

Exhibit B



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



10/2/20

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RECEIVED
 JAN 20 2010
 POLK COUNTY
 COMMUNITY DEVELOPMENT

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

In the Matter of the Application of)
 Sherry Garcia and Antonio Garcia-Vasquez)

Plan Amendment 08-01
 Zone Change 08-01

SUMMARY OF PROCEEDINGS

This matter arose on the application of Sherry Garcia and Antonio Garcia-Vasquez ("Applicants") for an amendment to the Polk County Comprehensive Plan (PCCP) and a zoning map amendment. The subject property is located at 300 Main Street, Rickreall, Polk County, Oregon, and is legally described as tax lot 100, section 30CA, T7S, R4W, WWM. Applicable review and decision criteria are Polk County Zoning Ordinance (PCZO 111.140, 111.275, 115.060, and Oregon Statewide Planning Goals.

Applicants propose to change the existing PCCP designation of the subject 3.4-acre property from Unincorporated Community Residential to Unincorporated Community Commercial. The applicant is also proposing to change the existing zoning designation of the subject property from Acreage Residential-5 Acre Minimum (AR-5), with uses restricted to education, ministry, and religious outreach activities, to Rickreall Unincorporated Community Commercial (Rickreall UC-C).

On February 5, 2008, these applications were submitted by Anthony R. Kreitzberg on behalf of the Dallas School District, which then owned the subject property. The applications were deemed complete when the applicants submitted additional information on April 11, 2008. The Department of Land Conservation and Development (DLCD) was provided a 45-day notice on February 27, 2008. The Dallas School District requested that the applications be placed on hold on May 22, 2008. On September 21, 2009, the Dallas School District sold the subject property to Sherry Garcia and Antonio Garcia-Vasquez pursuant to the recording of a warranty deed in Polk County Clerk Document 2009-11071. On October 1, 2009, the Dallas School District submitted a letter transferring the applications to Sherry Garcia and Antonio Garcia-Vasquez. That same day, Sherry Garcia submitted a new signed application form for each application, thereby completing the transfer of applications PA 08-01 and ZC 08-01 from the Dallas School District to Sherry Garcia and Antonio Garcia-Vasquez. The applications were removed from their hold status with that transfer on October 1, 2009.

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

Location	Comprehensive Plan Designation	Zoning Classification (See Zone map Attachment B)
Subject Property	Unincorporated Community Residential	Acreage Residential 5-Acre Minimum (Limited to education, ministry, and religious outreach activities)
Property North	Agriculture	Exclusive Farm Use & Rickreall Interchange Management Area Overlay
Property South	Unincorporated Community Residential & Unincorporated Community Commercial	Suburban Residential & Rickreall Unincorporated Community Commercial
Property East	Agriculture	Exclusive Farm Use & Rickreall Interchange Management Area Overlay

Property West	Unincorporated Community Residential	Suburban Residential
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According to a review of the 2008 Polk County Aerial Photograph, the subject property is bordered by the State Highway 22 & 99W interchange to the north and a 75.2-acre property zoned EFU to the east. The property to the east appears to be managed for the production of grass seed. The properties to the south include the Rickreall Grange and a property that contains a single family dwelling and is zoned Rickreall UC-C. The subject property is bordered to the west by State Highway 99W, and across the highway to the west, properties are used for residential purposes. The eastern property line is partially bordered by Nesmith Road.

The subject property was lawfully created pursuant to Polk County Subdivision and Partition Ordinance Section 91.950(a) as evidenced by the recording of Polk Deed Volume 57, Page 101, dated May 1, 1912; including the recording of the following deeds: Deed Volume 164, Page 148, dated June 5, 1957; Deed Volume 124, Page 246, dated May 25, 1946; and Deed Volume 164, Page 387, dated July 17, 1957. According to Polk County Assessor's records, the subject property currently contains a 7,383 square foot building constructed in 1940, identified on the Polk County Historic Landmark register as "Rickreall High School," an attached 3,836 square foot gymnasium, and an asphalt court area.

The subject property contains the Rickreall High School, which was included in the Polk County Historic Landmark register in 1993 by Ordinance No. 93-10. Ordinance No. 93-10 adopted the Polk County Historic Resource Inventory: Phase II, and identified Rickreall High School as Inventory No. 50. Inventory No. 50 lists the School's common name as "Rickreall Elementary School" and its historic name as "Rickreall High School." The Rickreall School is therefore subject to PCZO Chapter 183, which sets standards for exterior remodeling or alteration of the school building and specific criteria for removal of the school from the inventory of significant landmarks.

The subject property gained its current zoning and designations by PCCP plan amendment file number PA 04-03 and zone change file number ZC 04-03, which both became effective on June 15, 2005. Two Board of Commissioner's actions approved the current zoning and PCCP designations. Ordinance 05-05 approved a PCCP designation change from Public Lands to Unincorporated Community Residential and a zone change from Public and Private Educational Facilities (PE) to Acreage Residential 5-Acre Minimum (AR-5). Order 05-27 limited the uses of the property to education, ministry, and religious outreach activities.

The subject parcel is not identified as containing significant resources on the Polk County Significant Resource Areas Map. Based on a review of the National Wetland Inventory map, Staff found no identified wetlands on the subject property. The subject property is not located within an identified floodplain, pursuant to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel number 41053C0265F, dated December 19, 2006.

Staff requested that the applicant provide an analysis of what level of development is likely to occur on the subject property if this zone change and comprehensive plan amendment are approved. This analysis is needed in order to more accurately evaluate the potential impacts of the proposed zone change and comprehensive plan amendment. The applicant provided the following statement in their letter dated December 1, 2009:

Proposed future use for the subject property: Auditorium / Event Hall available to rent for events such as: Community Activities, Weddings, Receptions, Birthday Parties, and other events and /or meetings as needed by the surrounding communities. One example of this use is "THE CHRISTMAS PAGEANT" which has been held at this location for the past 68 years.

Days and Hours of Operation: The Auditorium / Event Hall will be available 7 Days a week as needed from 8am - 11pm with one additional hour of clean up to be completed by 12am.

Noise: Loud noise such as Band Music will be restricted to inside the gym area and will be required to stop by 10:30pm.

Parking: Parking for these events and activities will be on the South and East side of this property, with 3.2 acres offering space for parking.

Traffic: Traffic for such events and activities will not cause a conflict with any busy highways or high traveled roads since the entrance to the property is off a very low traveled road which connects to a main highway via an intersection with a traffic signal light which will help control traffic flow.

Applicants believe this use will have little or no conflict with the surrounding area because there is already the same kind of business activities in the nearby area. An example is: The Polk County Fairgrounds located at 520 S. Pacific Hwy, which is only 0.5 of a mile from the subject property.

In conclusion, applicants say this will help the community and surrounding area's needs.

The Rickreall School, which is located on the subject property, is designated as a significant historic landmark. The school may be used for any use allowed by the underlying zone, assuming the property owner obtains all necessary local, state, and federal permits. The school, however, is subject to the standards for removal and exterior remodeling or alteration of a historic landmark specified in PCZO Chapter 183. The prohibitive standards for removing a historic landmark make it likely that if these applications are approved, commercial use of the subject property would be located within the existing school. For the purposes of planning, if these applications are approved it is reasonable to assume that the existing school building would be fully utilized for commercial uses. Based on the statement by the applicant, one use of the building would be as an auditorium. PCZO Chapter 153.540(C)(3) allows an auditorium as an outright permitted use in the Rickreall UC-C zone; however, the auditorium must be confined to a building that contains 4,000 square feet or fewer. According to Polk County Assessor records, the Rickreall School contains a total of 11,307 square feet. This includes a 3924 square foot gym and the 7383 square foot main school building. If 4,000 square feet of the school are used for an auditorium (likely the gym), that would leave approximately 7300 square feet of space available for other uses. These other uses may include small retail shops, residential uses, or other uses permitted in the Rickreall UC-C zone.

Notice of the January 12, 2010 public hearing before the Polk County Hearings Officer was provided as required by PCZO 111.340 to 111.370. Notice was mailed to property owners located within 250 feet of the outside perimeter of the subject property, on December 15, 2009. Notice was printed in the Dallas, Oregon, *Itemizer-Observer* newspaper on December 23, 2009. Notice was posted on the subject property on December 21, 2009.

The subject parcel has frontage along, and gains access from, Nesmith Road. Nesmith Road is a local road as classified in the *Polk County Transportation Systems Plan*, Figure 3. It is served by the Rickreall Water Association, and by a private sewage (septic) disposal system. Fire and police protection are provided by the Southwest Polk Rural Protection District, and by the Polk County Sheriff.

WRITTEN COMMENTS PRIOR TO PUBLIC HEARING

The Polk County Environmental Health Division states that potable water and adequate sewage disposal must be provided, based on the design flow and size of the drainfield. The division must approve connection to the existing drain field or alteration thereto. The Department of Land Conservation and Development submitted comments constituting Attachment G of the Staff Report.

On January 5, 2010, a letter was received from Dan Fricke, Senior Transportation Planner for the Oregon Department of Transportation. Fricke said that, after their research, they have no objection to approval of the application with a finding of no significant impact pursuant to OAR 660-012-0060 (TPR). The letter has been placed in the Record.

PUBLIC HEARING

A duly advertised public hearing was conducted in the Polk County Courthouse on the evening of January 12, 2010. Staff summarized its report, and cited the applicable review and decision criteria. There were no objections as to notice, jurisdiction, or conflict of interest. The Hearings Officer recited the admonitions required by law and ordinance. Applicants appeared personally in support of their project, and said they agreed with the staff report. Ed Giesbrecht, who lives nearby, expressed support, and said he hopes the venue will be used again for Rickreall's annual Christmas pageant. Ben Haynes also expressed support. No one was present to oppose the application. There was no occasion for a rebuttal, and no one asked for a continuance or requested that the Record remain open for an additional period.

There being no further business, the Hearings Officer adjourned the meeting. Robert W. Oliver, Polk County Hearings Officer, presided. He had been given authority by the Polk County Board of Commissioners to hear the case and submit a recommendation.

FINDINGS

(General)

Authorizations for a PCCP amendment and a zone change are listed under PCZO 115.050, and 111.275. Under these provisions, the Hearings Officer conducts a public hearing pursuant to PCZO 111.190 and 115.030 and makes a recommendation to the Polk County Board of Commissioners. The Board conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. Staff findings and analysis are provided in this section. Complete findings proposed by applicants are included as Attachments D, E, and F of the Staff Report.

(Comprehensive Plan Amendment)

1. Findings for Comprehensive Plan Amendment file PA 08-01. Amendments to the Comprehensive Plan Map must meet one or more of the following criteria: [PCZO 115.050(A)]

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

Applicants state that the subject property is in close vicinity with the Highway 99W and Highway 22 interchange (see aerial photograph attached as Exhibit "F" of the Staff Report). Within the last five years a new, improved interchange has been completed at the intersection of Highway 99W and Highway 22. The new interchange makes it easier and safer to exit from Highway 22 onto Highway 99W and access the commercial businesses along Highway 99W in Rickreall.

One of the purposes and functions of the AR-5 zone is to "Meet the needs of a segment of the population for non-urban, non-farm acreage home sites." PCZO 128.510(f). However, the location of the subject property along a major highway and in close proximity to commercial development causes the subject property to have a commercial urban flavor, which is not consistent with providing large acreage "non-urban property for home sites", the goal and purpose of the AR-5 zone.

The PCCP, under "Unincorporated Community Residential", states that "The Unincorporated Community Residential plan designation applies to areas within designated unincorporated communities suitable for residential development. *These communities often have limited commercial or industrial development and are primarily devoted to residential uses. Typically, residential development within unincorporated communities consists of small home sites.*" The subject property is not well suited for the current PCCP designation of Unincorporated Community Residential, because the subject property is in close proximity to commercial development and most of the property east of Highway 99W in the vicinity of the subject property has been developed and

devoted to commercial uses. With the improvement of the Highway 99W and Highway 22 interchange, one would expect the commercial development along Highway 99W to continue to expand and potentially flourish. Therefore, the current PCCP designation is no longer appropriate, due to changing conditions in the surrounding area, and this criteria is satisfied.

Staff states that the subject property is located in the Unincorporated Community of Rickreall, and is currently designated Unincorporated Community Residential. The property is currently zoned AR-5; however, the uses on the property are limited to education, ministry, and religious outreach activities. The subject property is the site of the historic Rickreall School. The subject property was recently sold by the Dallas School District to a private party, and according to the information in the application, the current property owners (applicants) do not intend to use the property as a school. The Rickreall School is designated a significant historic landmark, and is subject to the standards for removal or exterior remodeling or alteration specified in PCZO Chapter 183. The school cannot be demolished unless it is removed from the Historic Landmark Inventory through the process described in PCZO Chapter 183.

The subject property obtained its current PCCP and zoning designations in 2005 through planning applications PA 04-03 and ZC 04-03. Those changes were requested because the Dallas School District had planned to sell the property to a faith-based organization in order to use the property as a private school and church. The Board of Commissioners approved changing the property from a public PCCP and zoning designation to its current designations. Through that planning process the uses of the subject property were restricted to education, ministry, and religious outreach activities. That sale of the property did not occur; however, the current property owners who recently acquired the property are still subject to the restrictions adopted in 2005. In order to use the property for uses other than education, ministry, and religious outreach activities, without changing the property's PCCP designation, the applicant could apply to change the zoning to Suburban Residential (SR) or AR-5 (without the current limited uses). The SR and AR-5 zones allow single family dwellings and other uses that are predominately associated with single family dwellings. Due to the restrictions placed on the property with regards to the historic status of the Rickreall School, it is unlikely that the schoolhouse would be used for residential purposes. Consequently, Staff believes that due to the change in ownership and limitations on the property, the current Unincorporated Community Residential PCCP designation is no longer appropriate.

Also, as described by the applicant, the Highway 22 and 99W grade separated interchange was completed approximately five years ago. That interchange is located immediately to the north of the subject property, and facilitates faster traffic flow through the interchange. The interchange may encourage rural residents to the north of the subject property and the travelling public to more frequently utilize Rickreall's commercial offerings.

Based on the above findings, staff concluded that the application meets this criterion.

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

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

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

- 1. To provide maximum opportunity for citizens to participate in unincorporated community planning.**
- 2. To establish unincorporated community boundaries in order to distinguish land within the community from exception areas, resource lands and other rural lands.**
- 3. To support the historically significant contribution that unincorporated communities have made to the economic**

structure of Polk County.

- 4. To provide for opportunities for development in unincorporated communities while preventing development that would exceed that ability of the area to provide potable water, wastewater management, or transportation services.**
- 5. To provide for and maintain a viable economy while preserving the present sense of community and environment.**

Applicants urge that changing the PCCP to allow “small-scale, low impact, commercial uses” under the Unincorporated Community Commercial PCCP designation will support the historically significant contribution that unincorporated communities have made to the economic structure of Polk County and provide for opportunities for development in the unincorporated community of Rickreall. The change of the PCCP designation to allow for commercial use of the subject property is consistent with the above goals and policies because the subject property is within the unincorporated community of Rickreall, in direct proximity to state highways that carry substantial amounts of traffic, which is conducive to economic activity and less attractive for single family residential use because of the traffic noise, congestion and commercial activity in the vicinity. Therefore, the proposed change from Unincorporated Community Residential to Unincorporated Community Commercial conforms to the intent of the relevant goals and policies in the PCCP, and the purpose and intent of the Unincorporated Community Commercial land use designation.

Staff states that the PCZO provides multiple opportunities for the general public to provide input during this planning process. The Hearings Officer is required to conduct a public hearing pursuant to PCZO 111.190 and 115.030 and make a recommendation to the Polk County Board of Commissioners. Then, the Board must conduct a public hearing pursuant to PCZO 111.200 and 115.030 and make a final local decision. The applicant is proposing to change the PCCP and zoning designations of the subject property, and this proposal would not change the boundary of the Rickreall Unincorporated Community.

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

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

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

Applicants argue that *the uses allowed under the proposed rezoning will contribute to the well-being of the community.*

The subject property is currently being underutilized and the maintenance of the property is a drain on school district resources, which could be better utilized for the education of students. The property is currently zoned for AR-5 with additional use restrictions limited to education, ministry and religious outreach activities. Jesus. R. Jubilee Ministries, Inc., which consented to these restrictive use limitations in the prior approved zone change did not exercise its option to purchase the property, so the uses of the property need to be expanded to include other activities that will contribute to the well-being of the community.

The proposed zone of Rickreall UC-C will allow for a broader spectrum of uses than the current, very restrictive zoning, including use of the property as a church, community or neighborhood club, childcare services, eating and drinking places, miscellaneous retail commercial office space, retirement homes, and other uses which will be beneficial and contribute to the well-being of the community. See PCZO § 153.540.

The allowed uses under the proposed zone with the historical overlay zoning restrictions will not seriously interfere with surrounding or adjacent activities.

The intent of the Rickreall UC-C zoning district is to allow for commercial activities which generally consist of uses that compliment agriculture and forest activities in the surrounding area, uses that serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact. PCZO § 153.510. Activities allowed in this zone are generally low impact and will be further restricted by the historical designation on the property.

The two parcels of property immediately south of the subject property are currently being used for Masonic meetings and a meeting place for the Grange's members. These quasi-commercial uses should not be impacted by the generally low impact uses allowed under Rickreall UC-C zoning.

The southeast quarter of the subject property abuts Tax Lot 401, which has the same zoning of Rickreall UC-C that is proposed for the property. Therefore, since the properties would have the same zoning, the uses allowed within that zone should be compatible, and the property has the additional restrictions under the historical designation.

The property south of the subject property and east of the property is zoned EFU and is actively being farmed. The farming activities are buffered from the property to the east by Nesmith Road and are buffered from the property on the north by a number of well established, mature trees and open space on the property. Therefore, the combination of the existing roadway, natural screening from existing trees, and open space on the property all combine to substantially reduce any potential interference with the adjacent farming activities.

Any allowed use within Rickreall UC-C on the Subject Property would be consistent with the identified function, capacity and level of service of facilities.

The subject property has existing service for electricity and telephone and receives its water from the Rickreall Water Association. The property has its own on-site sewage disposal system. Therefore, the property has existing utility services in place that would accommodate the allowed uses within the proposed zone.

Staff states that applicants are proposing to change the PCCP designation of the subject property from Unincorporated Community Residential to Unincorporated Community Commercial. The applicants are also requesting a zone change from AR-5, with limited uses, to Rickreall UC-C. The Rickreall UC-C zone has been acknowledged by the Department of Land Conservation and Development as consistent with the Oregon Statewide Planning Goals. The uses allowed in the Rickreall UC-C zone were determined by Polk County, through the local planning process, to be consistent with the goals and policies of the PCCP when the Rickreall UC-C zone was created in 2001 by Ordinance 01-07 and updated in 2004 by Ordinance 04-16.

In the context of this PCCP Policy the relevant question is whether changing the PCCP and zoning designations of the subject property to commercial designations would allow the uses on the property to continue to comply with this PCCP policy. According to the information in the record, the property is no longer used for a school. Therefore, permitting commercial uses on the property would allow the property to provide services to the community and support some employment. This would contribute to the well-being of the community.

According to a review of the 2008 Polk County Aerial Photograph, the subject property is bordered by the State Highway 22 and 99W interchange to the north, and a 75.2-acre property zoned EFU to the east. The property to the east appears to be managed for the production of grass seed. The properties to the south include the Rickreall Grange, zoned SR, and a property that contains a

single family dwelling, zoned Rickreall UC-C. The subject property is bordered to the west by State Highway 99W, and across the highway properties are used for residential purposes. The eastern property line is partially bordered by Nesmith Road. If the property is used for commercial uses it would be subject to the development standards in PCZO Chapter 112. These standards include requirements for building setbacks, landscaping, and parking requirements, and are intended to minimize conflicts between neighboring properties.

The subject property is accessed by Nesmith Road. Nesmith Road abuts the subject property and connects to Rickreall Road approximately 0.3 mile from the subject property. There are no current traffic counts for Nesmith Road, which is designed to accommodate up to 2000 average daily vehicle trips; however, the Polk County Public Works Department estimates that there are approximately 25 average daily trips on Nesmith Road. The Department indicates that as a major collector, Rickreall Road is designed to accommodate up to 6000 average daily vehicle trips. The last traffic count on Rickreall Road in the vicinity of its intersection with Nesmith Road showed 1050 average daily vehicle trips. These figures indicate that Rickreall and Nesmith Roads have significant available capacity.

Commercial use of the subject property is likely to have no greater adverse traffic impacts to the neighborhood than if the property was used as a school. As mentioned earlier, the standards for exterior alteration or removal of a historic landmark diminish the likelihood that the Rickreall School building would be removed or expanded. So for the purposes of evaluating traffic impacts, it is reasonable to assume that school or commercial use of the property would be confined to use of the existing Rickreall School building. The zoning of the subject property currently allows the property to be used as a school. The Rickreall School was most recently used as an elementary school. The applicants propose to change the zoning of the subject property to Rickreall UC-C in order to use the Rickreall School gym as an auditorium. The main school building could be used for other uses allowed in the Rickreall UC-C zone. As a method to compare the vehicle trip generation potential of a school with commercial use of the subject property, Staff used the following cumulative trip generation rates provided in the San Diego Municipal Code, Land Development Code, Trip Generation Manual (May 2003)¹:

- Elementary School: 39 trips/1,000 sq. ft.
- Auditorium: 0.6 trip/1,000 sq. ft.
- Specialty Retail Center/Strip Commercial: 36 trips/1,000 sq. ft

Based on Polk County Assessor records, the Rickreall School contains a 3924 square foot gym and a 7383 square foot main school building, for a total of 11,307 square feet. Using the above formulas, a school would produce approximately 441 average daily vehicle trips ($11,307/1000*39$). The applicants have indicated that if the applications are approved, the gym would be used for an auditorium. The applicants have not provided a plan for the remaining school building. For the purposes of comparing traffic impacts, Staff believes it reasonable to assume that the remaining school building would be used to house specialty retail stores. Using these assumptions, the auditorium would produce approximately 2 average vehicle trips per day ($3924/1000*0.6$), and specialty retail stores would produce approximately 266 average vehicle trips per day ($7383/1000*36$), for a total of 268 average vehicle trips per day. If the entire school building was used to house specialty retail stores, the Rickreall School would produce approximately 407 average daily vehicle trips ($11,307/1000*36$). These figures demonstrate that if the Rickreall School is used for commercial use, it would produce either 266 or 407 average daily vehicle trips. If used as an elementary school, it would produce 441 average daily vehicle trips. This comparison shows that commercial use of the property would produce traffic levels less than or equal to the amount generated by using the Rickreall School as an elementary school.

¹ Available online at <http://www.sandiego.gov/planning/pdf/tripmanual.pdf>

The Rickreall School is located approximately ¼ mile from the Highway 22 and 99W interchange. That interchange was designed under the traffic assumptions described in the Rickreall Junction Facility Plan (2004). The Rickreall Junction Facility Plan Section 6.1 acknowledged that the subject property contained a school that was not currently in operation, but assumed for purposes of planning that it may be reopened. The interchange was therefore designed with the assumption that the subject property would have the traffic impacts of a school. As described above, if the subject property is used for commercial uses, it would produce equal to or less traffic than if the property was used as a school. This indicates that commercial use of the subject property would not increase traffic volume so as to exceed the assumptions used to ensure capacity within the Highway 22 and 99W interchange. In consideration of these factors, Staff concluded that there are adequate transportation facilities in place to support the proposed applications.

Commercial use of the subject property likely would also result in less traffic congestion associated with temporal traffic surges. Schools produce temporal surges of traffic on weekdays during peak driving times. Temporal surges of traffic can disrupt neighborhood traffic flow. Auditoriums also produce traffic surges; however, event-related surges are typically concentrated during evenings and weekends, which are off-peak driving times. Traffic attracted to retail or service establishments would likely not be temporal. So, traffic congestion associated with commercial use of the subject property would likely be no greater than a school because surges of traffic would primarily occur during off-peak driving times. Consequently, Staff did not believe that use of the subject property as proposed by the applicant would cause a change in traffic volumes or patterns that would seriously interfere with surrounding activities.

The subject property contains approximately 3.4 acres, and is served by an on site sewage disposal (septic) system. If these applications are approved, the property owner would be required to ensure that the existing or a new septic system is adequate to accommodate the commercial use of the property. The property is accessed by Nesmith Road and located in the area served by the Rickreall Water Association. The subject property is also located within the Southwest Polk Rural Fire Protection District, and receives law enforcement services from the Polk County Sheriff's Department. The applicant also reports that the subject property is served by electricity and telephone services. Based on the above factors and the evidence in the record, Staff concluded there are adequate service facilities in place in order to support commercial use of the subject property.

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

Applicants maintain that the property north of the subject property and east of the subject property is zoned EFU and is actively being farmed. The farming activities are buffered from the subject property to the east by Nesmith Road and are buffered on the north by a number of well established, mature trees and open space on the property. Therefore, the combination of the existing roadway, natural screening from existing trees, and open space on the subject property all combine to substantially reduce any potential interference with the adjacent farming activities.

No Significant Impact on EFU Properties. Applicants contend that the historical designation will limit the possible permitted uses to low-impact uses that would continue to provide a buffer between the agricultural uses of the EFU properties to the north and east and the more intensive development of the properties to the west and south. Any use of the subject property consistent with its historical designation would not allow the use of the property for any commercial purposes that would cause either discharges to the air or water that would negatively impact adjacent farming operations. The subject property is also setback and buffered from the EFU property to the east by Nesmith Road and is buffered and screened from EFU property to the north by mature trees. Therefore, the combination of the existing setbacks and screening from EFU property together with the limited low-impact types of uses consistent with the historical designation will prevent the property from having any significant adverse impact on the EFU property to the east and north.

Staff believes that as described by the applicant, and confirmed by a review of the Polk County Zoning Map, the property to the north and east of the subject property is employed for farm use and zoned EFU. Staff does not believe that establishing commercial uses on the subject property would adversely affect the agricultural use of the neighboring EFU zoned property. As described above, if the property is used for commercial uses it would be subject to the development standards in PCZO Chapter 112. Those standards include requirements for building setbacks, landscaping, and parking requirements, and are intended to minimize conflicts between neighboring properties. Also, the subject property has historically been used as a school, which is a sensitive use. Those persons farming the property to the north and east would historically have needed to be mindful that spray applied to the farm land not drift onto the school's property as a matter of safety for students, parents, and school staff. Staff does not believe that commercial use of the property would create a situation that is more sensitive to externalities associated with farming than a school. Staff further does not see any reason why commercial use of the property would increase the incidence of trespassing on the neighboring farm property. Nesmith Road does provide some buffer between the subject property and the farm parcel to the east, and the subject property is approximately 3.4 acres which is a reasonably manageable size for a property owner to maintain the property and control the spread of noxious weeds.

Based on the above discussion, Staff says it did not see any evidence to suggest that the proposed PCCP and zoning designations would adversely affect the neighboring farm operation or commit that EFU zoned property to uses other than farm use.

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

Applicants say the proposed zoning of Rickreall UC-C does not allow for industrial uses of the property. Therefore, any permitted use of the property under the proposed zone should not result in any significant emissions into the air, or discharges onto the ground or into the water supply. Therefore, any allowed use under Rickreall UC-C with the additional use restrictions under the historical designation should not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

Because of the historical designation protecting the subject property, any proposed use will likely be limited to the area of the existing building. The property receives water from the Rickreall Water Association. The property has its own septic system. The property is approximately 3.37 acres in size, and therefore should be able to accommodate a larger underground septic system, if necessary. Any increases or changes in the underground septic system will require necessary permits, so that any change in the system will not exceed the carrying capacity of the soil.

Staff says the applicants have proposed to change the PCCP designation to Unincorporated Community Commercial and the zoning to Rickreall UC-C. The permitted uses in the Rickreall UC-C zone are described in PCZO 153.500, and include uses which complement nearby farm and forest uses, serve the traveling public, and other uses that are small-scale and low-impact. The small-scale, low-impact uses are subject to a 4,000 square foot building size limitation. The building on the property is currently served by an on-site sewage disposal system and by the Rickreall Water Association. The property owner would be required to obtain all necessary building and septic permits if they propose expansion of the buildings on the property or new commercial development in the future. An applicant would also need to provide water to any future commercial development. Staff recommended that a condition of any approval require that the applicant obtain all necessary building, environmental health, access, and other applicable state and federal permits prior to any

future structural development on the subject property. With these considerations, Staff did not see evidence to suggest that permitting the proposed PCCP amendment and zone change would result in public health hazards or adverse environmental impacts or exceed the carrying capacity of the soil and water supply resources.

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

Staff states that Polk County's Rickreall UC-C zone has been acknowledged to be compliant with Oregon Administrative Rule (OAR) and Goal 14 requirements established by the Oregon Land Conservation and Development Commission in the year 2000 (OAR 660-004-0040). If this PCCP amendment and zone change are approved, the property owner would be limited to the uses described in the Rickreall UC-C zone.

5. **Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Rickreall community with a trip generation potential that significantly exceeds the trip generation assumptions for the Rickreall community adopted into the Polk County TSP as part of the Rickreall Junction Facility Plan. The ODOT contact for any such development shall be the ODOT Area 3 Planner.** [Polk County Transportation Systems Plan, Policy 2.9]

Staff provided notice of the proposed PCCP amendment and zone change to ODOT on February 19, 2008. ODOT has been notified as required by this policy.

- C. **The Unincorporated Community Commercial Plan designation applies to areas within designated unincorporated communities suitable for commercial business activities. While much of the land within these communities is devoted to residential uses, some opportunities for commercial activities exist. In addition to serving the needs of the local community, commercial uses within unincorporated communities include uses which complement nearby farm and forest uses, uses which serve the traveling public, and other uses which are small-scale and low impact.**

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

Applicants claim the proposed amendment to change the PCCP designation to Unincorporated Community Commercial and rezoning of the subject property from AR-5 to Rickreall UC-C is consistent with the purpose and intent of the proposed land use designation, in that commercial activity on the subject property will provide employment opportunities for some of the residents living in and nearby the unincorporated community of Rickreall, and will also be an opportunity for commercial activities to serve the needs of the local community, nearby farm and forest uses, and the traveling public.

As described above, Staff believes the subject property is suitable for commercial business activity because it would be provided with necessary service facilities including an on-site sewage disposal system, access to a community water system, and frontage along Nesmith Road. The property is restricted to education, ministry, and religious outreach activities, which are uses that are not being pursued by the current property owners. Use of the property for commercial purposes

would allow the property to provide some employment opportunities within the unincorporated community. If this PCCP amendment and zone change are approved, the Unincorporated Community Commercial designation would be implemented through application of the provisions in the Rickreall UC-C zone; which are described in PCZO 153.500.

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

Applicant contends:

Statewide Planning Goals. The proposed zoning change and PCCP amendment is consistent with statewide planning goals.

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.

The notice and hearings process before the Hearings Officer and Board of Commissioners will provide an opportunity for citizen involvement.

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 ensure an adequate factual basis for such decisions and actions.

Under this goal, each plan and related implementation measure shall be coordinated with the plans of affected governmental units. Affected governmental units are those local governments, state and federal agencies, and special districts which have programs, land ownerships, or responsibilities within the area included in the plan. Implementation measures can be site specific.

The Applicants propose a site-specific PCCP amendment. Polk County can satisfy Goal 2 by notifying the governmental units that will be affected by this amendment, including DLCD.

Goal 3: Agricultural Lands. To preserve and maintain agricultural lands.

The Subject Property is not zoned EFU, so this goal is not applicable.

Goal 4: Forest Lands. To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that ensure the continuous growing and harvesting and forest species as the leading use on forest land consistent with sound management of soil, air, water, fish and wildlife resources, and to provide for recreational opportunities and agriculture.

The Subject Property is not in a forest zone and has no known forest land capability. This Goal is not applicable.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. To conserve open space and protect natural and scenic resources.

1. *Historical Designation – Goal 5.* The subject property currently contains a 7,383 square foot school building constructed in 1928 with a 3,836 square foot gymnasium, an asphalt court area, and a playground. The school building is included in the Polk County Inventory of Historic Properties. The Rickreall School is designated a “1-C” and “3-C” resource on the County’s significant resource area map. This proposal does not include changing the historic resources overlay zoning that is applied to the subject property. This proposal also does not include a request to alter the exterior of the historic school building, or add new structures or improvements.

Goal 5. Since the school building on the property has been designated as a significant historical resource, Goal 5 applies to this application. Some Goal 5 resources such as

significant mineral resources require an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from the decision to allow, limit or prohibit a conflicting use. However, OAR 660-023-0200 provides that:

“Local governments are not required to apply the ESEE process in order to determine a program to protect historic resources. Rather, local governments are encouraged to adopt historic preservation regulations regarding demolition, removal or major exterior alteration of all designated historic resources. Historic protection ordinances should be consistent with standards and guidelines recommended in the Standard and Guidelines for Archeology and Historic Preservation published by the US Secretary of the Interior.”

Polk County complies with the policies of Goal 5 through the application of PCZO Chapter 183, which includes provisions regulating preservation, modification and demolition of historic structures. This Application does not propose to amend the code text of PCZO Chapter 183 or the protections that PCZO Chapter 183 provides to the historical school building. Therefore, any proposed use of the historic school building after the proposed rezoning would still be subject to the regulations and protections provided under PCZO Chapter 183 for historic resources.

Since PCZO Chapter 183 is in place to protect the historical resource, and it will continue to be in place after the proposed zone amendment, the application is in compliance with Goal 5, which allows for and requires that historic properties be protected by historic protection ordinances such as PCZO Chapter 183. Therefore, this application will be in compliance with Goal 5 and no exception to Goal 5 is required.

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

The normal “small-scale and low impact” uses allowed under the Unincorporated Community Commercial Plan designation and Rickreall UC-C Zone will not generate significant, air or water pollution discharges. The subject property is not in an identified sensitive ground water overlay zone. Goal 6 is satisfied.

Goal 7: Area Subject to Natural Disasters and Hazards. *To protect life and property from natural disasters and hazards.*

The subject property is not in an identified flood plain. The subject property is flat and does not contain any geologic slide hazards. Goal 7 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.*

No Goal 8 resources are identified on the subject property or implicated by this application. This Goal is not applicable.

Goal 9: Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.*

This goal is satisfied because the subject property, under the proposed Unincorporated Community Commercial Plan designation and Rickreall UC-C zoning, will allow the Subject Property to be zoned for commercial uses, which will allow for economic development and economic activity in close proximity to two major state highways and within an [un]incorporated community area.

Goal 10: Housing. *To provide for the housing needs of citizens of this State.*

OAR 660-08-000 is intended to define standards for compliance with Goal 10. OAR 660-08 deals with the provision of adequate numbers of needed housing units, and the efficient use of buildable land within Urban Growth Boundaries. Since the subject property is not within a

UGB, Goal 10 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 the framework for urban and rural development.*

Additional public services beyond what is currently available to the subject property are not required as a result of this application. Adequate existing utility services are available to the subject property. Goal 11 is satisfied.

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

Under OAR 660-012-0060(1), amendments to acknowledged PCCP and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

Under OAR 660-012-0060(1), a plan or land use regulation amendment significantly affects a transportation facility if it:

- o Changes the functional classification of an existing or planned transportation facility;
- o Changes standards implementing a functional classification system;
- o Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
- o Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.

The subject application does not seek, and is not likely to result in, change in the functional classification of any road, or change the standards implementing the functional classification system, or reduce performance levels of the road facility. A condition of approval requiring Applicants to provide proof of conformance with Polk County requirements prior to development of the subject property will ensure that Goal 12 is satisfied.

Because of the historical designation of the old school building, the allowed uses for the school building and property are limited to low-impact types of uses including the potential uses as an antique mall, office space, bed and breakfast or restaurant. The subject property is served by the new Nesmith Road, which is accessed by very few other properties. Nesmith Road then connects with Rickreall Road, which Applicants understand from the Planning Department is operating at approximately one-half of its capacity. Rickreall Road then intersects with Main Street/Highway 99W within a short distance. Therefore, the transportation network is in place to support development of the property for a low-impact use consistent with its historical designation. Because of the limitation on potential uses allowed under the historical designation, it is not expected that any future use under the proposed zoning would have a significant impact on the traffic system.

Goal 13: Energy Conservation. *To conserve energy.*

The proposed subject property will be located in close proximity to Highway 99W and Highway 22, which will promote the efficient transportation of people and goods and services to the subject property, which will conserve energy. Goal 13 is satisfied.

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

The subject property is already within an Urban Unincorporated Community area, so Goal 14 does not apply. [Staff Note – The subject property is located within an *Unincorporated Community* as defined in OAR 660-022-0010(10)]

Goals 15: Willamette River Greenway; 16: Estuarine Resources; 17: Coastal Shorelands; 18: Beaches and Dunes; and 19: Ocean Resources are not applicable because the subject property is not within the Willamette River Greenway, or near any ocean or coastal-related resources.

For the reasons set forth above, Applicants contend that the proposal complies with the statewide planning goals.

Staff concluded that Applicants have addressed all applicable Oregon Statewide Planning Goals. With regards to traffic impacts resulting from commercial use of the subject property, as described above, Staff concluded that commercial use of the subject property would produce less than or equal to the amount of traffic that would be created if the subject property was again used as an elementary school. Therefore, approval of these applications would not result in an increase in traffic that would cause any road to change its functional classification. The subject property is an exception area so an exception to Goals 3 and 4 is not necessary. The applicant is proposing the Rickreall UC-C Zoning District to implement the proposed Unincorporated Community Commercial Comprehensive Plan designation. Polk County's Rickreall UC-C zone has been acknowledged to be compliant with Oregon Administrative Rule (OAR) and Goal 14 requirements established by the Oregon Land Conservation and Development Commission in the year 2000 (OAR 660-004-0040).

Staff concluded 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, there is no intergovernmental agreement that is applicable to this application. This criterion is not applicable to the proposed amendment.

Staff concluded that the applicants have satisfactorily demonstrated compliance with requirements for a change in the designation of the subject property. The Hearings Officer concurs, and so finds.

(Zone Change)

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

Staff notes that the criteria for a zone change and PCCP map amendment are listed under PCZO 111.275 and 115.050. Under these provisions, the Hearings Officer conducts a public hearing pursuant to PCZO 111.190 and 115.030 and makes a recommendation to the Polk County Board of Commissioners. The Polk County Board of Commissioners conducts a public hearing pursuant to PCZO 111.200 and 115.030 and makes a final local decision. This application is following the proper review process and meets this criterion.

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

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

111.275(A)]

Applicant states that the purpose statement for the intended Rickreall Unincorporated Community Commercial zoning (Rickreall UC-C) is to:

“...implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within the unincorporated community of Rickreall. The intent of the Rickreall UC-C zoning district is to provide for commercial development in the unincorporated community of Rickreall. Commercial activities in this zone generally consist of uses which compliment agriculture and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.”

Therefore, the purpose of this zone is to implement the PCCP policies related to commercial development by providing for a range of service and product-oriented activities, so the proposed zone of Rickreall UC-C is appropriate for the proposed Comprehensive Plan designation of Unincorporated Community Commercial. According to the PCCP, the Unincorporated Community Commercial Plan designation applies to areas within designated unincorporated communities suitable for commercial business activities to serve the needs of the local community, or compliment nearby farm and forest uses, or serve the traveling public, or other uses which are small scale and low impact.

The subject property is suitable for commercial business activities because it is adjacent to Highway 99W and is in close proximity to Highway 22, and other commercial activity. The rezoning of the subject property is consistent with the policy of Polk County to support the historically significant contribution that unincorporated communities have made to the economic structure of Polk County and “To provide an atmosphere conducive to economic activity.”

Staff says the applicants have concurrently applied in PA 08-01 to change the PCCP designation of the subject property to Unincorporated Community Commercial. As stated in Section 4 of the comprehensive plan, within the Rickreall Unincorporated Community, the Rickreall Unincorporated Community Commercial zone is the implementing zone of the Unincorporated Community Commercial PCCP designation. Also, as described in its Report, Staff concluded that commercial use of the subject property would be consistent with the intent of the Unincorporated Community Commercial PCCP designation.

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 purpose of the Rickreall Unincorporated Community Commercial (UC-C) Zoning District is to implement the Comprehensive Plan policies related to commercial development by providing for a range of service and product-oriented commercial activities. This zone is applied to commercial lands within the unincorporated community of Rickreall.

The intent of the RICKREALL UC-C Zoning District is to provide for commercial development in the unincorporated community of Rickreall. Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact.
[PCZO 153.510]

Applicants maintain that the purpose statement for the intended Rickreall Unincorporated Community Commercial zoning (Rickreall UC-C) “is to implement the PCCP policies related to commercial development by providing for a range of service and product-oriented commercial

activities. This zone is applied to commercial lands within the unincorporated community of Rickreall. The intent of the Rickreall UC-C zoning district is to provide for commercial development in the unincorporated community of Rickreall. Commercial activities in this zone generally consist of uses that complement agriculture and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses that are small-scale and low impact.”

The intent of the Rickreall UC-C zoning district is to provide for commercial development in the unincorporated community of Rickreall. One of the purposes and functions of the existing AR-5 zone is to “meet the needs of a segment of the population for non-urban, non-farm acreage home sites.” See PCZO 128.510(f). However, the location of the subject property adjacent to Highway 99W and in close proximity to commercial development gives the subject property an urban commercial character, that is not consistent with providing large acreage “non-urban property for home sites”, which is the goal and purpose of the AR-5 zone. Therefore, the subject property is better suited for and conforms better with the purpose statement of the Rickreall UC-C zoning district, which has the purpose of providing property for commercial development in the unincorporated community of Rickreall to serve the needs of the surrounding community, traveling public, or to complement the agriculture and forest activities in the surrounding area. Therefore, the proposal conforms with the purpose statement of the proposed zone.

Staff says the applicants have concurrently filed an application for a PCCP amendment and a zone change. The applicants have indicated plans to utilize the historic Rickreall School for an auditorium/event hall. PCZO 153.540(C)(3) allows an auditorium as an outright permitted use in the Rickreall UC-C zone; however, the auditorium must be confined to a building that contains 4,000 square feet or fewer. According to Polk County Assessor records, the Rickreall School contains a total of 11,307 square feet. This includes a 3924 square foot gym and a 7383 square foot school. If 4,000 square feet of the schoolhouse are used for an auditorium (likely the gym), that would leave approximately 7300 square feet of space available for other uses. These other uses may include small retail shops, residential uses, or other uses permitted in the Rickreall UC-C zone.

As stated in PCZO 153.510, the purpose of the Rickreall UC-C zone is to:

...provide for a range of service and product-oriented commercial activities. ...Commercial activities in this zone generally consist of uses which complement agricultural and forest activities in the surrounding area, uses which serve the needs of the surrounding community or the needs of the traveling public, or other uses which are small-scale and low impact

If the proposed zone change is permitted, the proposed auditorium use could be established under the small-scale and low impact standards. Although no new parcels are proposed by the applicants, the proposed Rickreall UC-C zoning would allow the creation of new parcels if the proposal could meet the development standards of PCZO 112.400(B) and the requirements of the Polk County Subdivision and Partition Ordinance. Although these development standards do not require a specific minimum parcel size for commercial use of the property, parcels must be of adequate size to provide for an approved on-site septic system, a potable water source, yard setbacks, and parking. If the applicant were to apply for a partition in the future, they would need to demonstrate at that time how the specific proposal would be consistent with the PCCP.

The property owner intends to utilize water from on-site wells and the Rickreall community water system. A septic system and a drain field would be used for sewage disposal. There have been no identified effects on local schools as a result of the proposed change. The Southwest Polk Rural Fire Protection District and the Polk County Sheriff Department provide emergency services for the subject property. The proposed uses and any future parcels created could obtain access to Nesmith Road a local road, as defined by the *Polk County Transportation Systems Plan* with the proper access permits from the Polk County Public Works Department. In reviewing the proposal, it does not appear that commercial use of the subject property would create a level of traffic that would change the functional classification of Nesmith Road or Rickreall Road. Staff concluded that with conditions of approval there are adequate public facilities, services, and transportation networks

available at this time to support commercial use of the property.

In consideration of the above factors, Staff concluded that approval of this request would be consistent with the purpose and intent of the Rickreall UC-C zone.

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

Applicants state that the proposed zoning of Rickreall UC-C only allows permitted uses "which are small-scale and low impact." PCZO §153.510. The allowed uses under §153.550(C) are restricted to a building or buildings not to exceed 4,000 square feet of floor space; in order to keep the uses "small-scale and low impact". PCZO §153.520. This proposed zone allows for only small-scale and low impact uses, which are compatible with residential uses, including single-family residences, which are an outright permitted use in this zone. PCZO §153.540(A)(2).

Even though two parcels of property immediately south of the subject property are currently zoned for single-family residential use, they are not being used for residential purposes. The commercial building located on Tax Lot 200 is being used for Masonic meetings, attached as Exhibit "D" of the Application, and the building located on Tax Lot 300, attached as Exhibit "E" of the Application, is also being used for commercial purposes as a meeting place for the Grange. Therefore, the rezoning and use of the subject property for small-scale, low impact commercial activities should not significantly adversely affect the existing or allowed uses of Tax Lot 200 or 300.

The southeast quarter of the subject property abuts Tax Lot 401, which is zoned Rickreall UC-C, which is the same as the zone proposed for the subject property, and is currently being used for a single-family residence. This proposed zone allows for only "small-scale and low impact uses", which are compatible with residential uses, including single-family residences, which are an outright permitted use in this zone. Directly east and adjacent to the subject property is Highway 99W, which creates a significant barrier and setback from the other properties on the east side of the highway, so there will be little or no impact on the properties to the east of the subject property by this proposed rezoning.

The property south of the subject property and east of the property is zoned EFU and is actively being farmed. The small-scale and low impact activities allowed under the Rickreall UC-C zoning district are not uses that would significantly adversely affect the farm activities on adjacent lands.

Staff concluded that the applicants are proposing to change the zoning of the subject property to Rickreall UC-C. Many uses that are permitted in the Rickreall UC-C zone are subject to the small-scale and low impact standard that limits the size of the building that accommodates the use to 4000 square feet. The floor area calculation does not include outdoor storage areas. A host of uses that serve the needs of the community and surrounding rural area or travelling public or that complement natural resource industries are not subject to the 4000 square foot building size limitation. These uses could theoretically be established in a larger building, provided that the building could meet the setback and other development standards of the zone.

Many uses would be outright permitted by the proposed Rickreall UC-C zone. These include residential uses, eating and drinking places, fruit stores and vegetable markets, farm product warehousing and storage, grocery stores, an auditorium, automotive dealers, and miscellaneous retail stores. There are also a host of uses that could potentially be established through a conditional use application process. The allowed commercial uses would offer goods or services, and do not include manufacturing facilities. Many of the commercial uses allowed in the Rickreall UC-C zone are subject to a 4000 square foot building size limitation. Uses must also be served by a septic system, and a septic system occupies area that cannot be developed with a building or parking lot. These factors place a practical constraint on the size of a commercial operation that could be established on the subject property. The primary impact that commercial use of the property would have on the neighborhood would be traffic. As discussed in above, Staff believes that commercial use of the historic Rickreall School would result in less than or equal amounts of traffic than if the Rickreall School was again used as an elementary school. Commercial use of the property would

also lead to fewer temporal spikes in traffic levels than if the property was used for a school.

Allowed uses on adjacent lands include farming and forestry activities on the property to the east, commercial activities to the south, residential uses across Highway 99W to the west, and a residence to the south of the subject property on a parcel zoned Rickreall UC-C. The property is bordered by the Highway 99W and 22 interchange to the north. Vehicle traffic resulting from commercial use of the subject property would not significantly affect the allowed uses on surrounding property. Staff has not identified any other offsite impacts that are typically associated with commercial uses that would impact surrounding properties.

In consideration of the above factors, the uses that would be permitted under the proposed Rickreall UC-C zone would not significantly adversely affect allowed uses on adjacent lands. Staff concluded that the proposed zone change and PCCP amendment are appropriate when taking into account surrounding land uses.

(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)]

Applicants say the subject property is served by all the necessary public utilities, facilities and services needed for commercial development. The subject property is served by Nesmith Road, which has very little traffic, and connects with Rickreall Road, which is a major traffic system that intersects Main Street/Highway 99W within a short distance. Therefore, the transportation network is in place to support development of the property for commercial uses.

Staff concluded that the applicants are proposing the zoning of the subject property to Rickreall UC-C. That zone allows a variety of commercial uses. The applicants have indicated that they would use a portion of the historic Rickreall School for an auditorium. Such a use would require water and on-site sewage disposal services (septic tank and drainfield). The property owners intend to use water provided by the Rickreall Community water system. There have been no identified effects on local schools that would result from the proposed change. Southwest Polk Rural Fire Protection District and the Polk County Sheriff Department provide emergency services at the subject property. Nesmith Road adjoins the subject property along the eastern property boundary, and it does not appear that commercial use of the subject property would result in more traffic than if the Rickreall School was again used as an elementary school. The Highway 22 and 99W interchange to the north of the subject property also provides easier access to and from Highway 22 and Highway 99W to the north. The applicant also reports that the property is served by electricity and telephone services.

Staff concluded that there are adequate public facilities, services, and transportation networks available at this time to support commercial use of the property. 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.

(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)]**

Applicants contend:

Surrounding Land Uses. Approximately 100 feet south of the Subject Property is the property used by Rickreall Farm Supply for commercial purposes. Southwest of the Subject Property is the Fire Department complex. North and east of the Subject Property is a large-scale commercial farm. Tax Lots 200 and 300, immediately south of the Subject Property, are being used for commercial non-

residential purposes. Therefore, the proposed change for the Subject Property to rezone it as Rickreall UC-C, which allows for small-scale, low impact commercial development, is consistent with the surrounding land uses.

The Density and Pattern of Development in the Area. Commercial activity has developed along both the west and east side of Main Street/Highway 99W. As mentioned above, the Subject Property is in close vicinity to Rickreall Farm Supply and other commercial development in the area. Therefore, it is consistent with the pattern of development in the area to allow the Subject Property to be used for commercial uses under the Rickreall UC-C zone.

Changes. Within the past two years, significant improvements were made to the Highway 99W, Highway 22 interchange with the removal of traffic signals and additional of off-ramps and on-ramps to Highway 99W from Highway 22, which allows traffic safer and easier access between Highway 99W and Highway 22. This will make it more convenient for the traveling public on Highway 22 to exit Highway 22 and utilize commercial activities within Rickreall, along Highway 99W. Because of the Subject Property's close proximity to the Highway 99W, Highway 22 interchange improvements, it is well situated to benefit from the increased economic activity to be expected along Highway 99W in Rickreall.

Staff states that the subject property is located within the Rickreall Unincorporated Community. Staff agreed with the applicants that the proposed zone change is appropriate when taking into account the existing land uses on surrounding land and pattern of development in the area. The portion of the Rickreall Unincorporated Community east of Highway 99W and north of Rickreall Road, in which the subject property is located, is predominately used for commercial uses and community uses (such as the Rickreall Grange and a Mason's Lodge).

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

Staff concluded that 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)]**

Staff concluded that the subject property is an exception area so an exception to Goals 3 and 4 are not necessary. The applicant is proposing the Rickreall Unincorporated Community Commercial Zoning District to implement the proposed Unincorporated Community Commercial PCCP designation. Polk County's Rickreall Unincorporated Community Commercial zone was acknowledged to be compliant with Oregon Administrative Rule (OAR) and Goal 14 requirements established by the Oregon Land Conservation and Development Commission in the year 2000 (OAR 660-004-0040).

CONCLUSIONS

Based on the Review and Decision Criteria identified above, the Hearings Officer accepts Staff's conclusions and finds that applications submitted for the proposed PCCP amendment and zone change;

- (a) are following the proper review process through a public hearing before the Polk County Hearings Officer for a recommendation to the Polk County Board of Commissioners,
- (b) have findings to support the proposed change to the PCCP,
- (c) are compatible with the proposed zoning designation as stated in the PCZO,
- (d) includes property that is served by adequate public facilities for transportation,

emergency, school, and electric power services, and

- (e) do not require an exception to the Statewide Planning Goals.

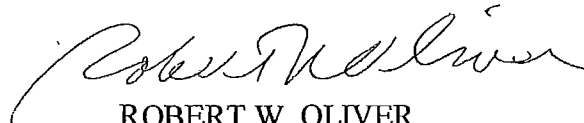
The proposed PCCP map amendment and zone change would comply with the provisions of law by the implementation of conditions.

RECOMMENDATIONS

Based on the evidence and information submitted into the record prior to and during the public hearing, the Hearings Officer RECOMMENDS to the Board of Commissioners that the applications to change the PCCP designation from Unincorporated Community Residential to Unincorporated Community Commercial and to change the Zoning Classification from Acreage Residential-5 Acre Minimum, with limited uses, to Rickreall Unincorporated Community Commercial; be APPROVED subject to the following conditions of approval:

- (1) Prior to development of the subject property, the property owner shall obtain all necessary federal, state, and county permits, prior to release of building permits. These permits may include, but are not limited to the following: planning permits from the Polk County Planning Division; building, electrical and plumbing permits from the Polk County Building Division, septic installation permits from the Polk County Environmental Health Division, and an access permit from the Oregon Department of Transportation (ODOT) or the Polk County Public Works Department.
- (2) Any development that occurs on the subject property shall be established in accordance with the provisions for development within the Rickreall Unincorporated Community Commercial Zone as required in PCZO Chapter 112. Required setbacks are listed in PCZO 112.400(B).
- (3) If water is provided by a community water system, a "Statement of Water Availability" shall be submitted prior to building permit issuance. The applicant shall comply with all applicable state and federal water laws.

Dallas, Oregon, January 20, 2010.



ROBERT W. OLIVER

Polk County Hearings Officer

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