



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

October 2, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Madras Plan Amendment  
DLCD File Number 015-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: October 17, 2006**

This amendment was not submitted to DLCD for review prior to adoption because the jurisdiction determined that emergency circumstances required expedited review. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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 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 DATE SPECIFIED ABOVE.**

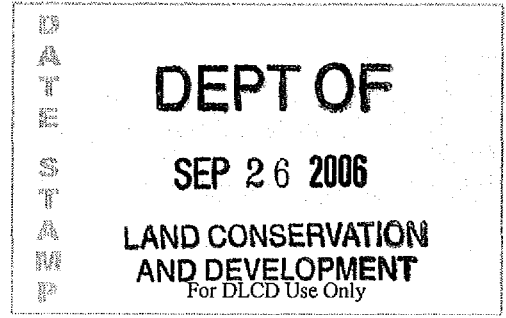
Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Mark Radabaugh, DLCD Regional Representative  
Chuck McGraw, City of Madras

<paa>



**PROF 2 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: City of Madras Local file number: RZ-06-2

Date of Adoption: 7/25/2006 Date Mailed: 9/26/2006

Date original Notice of Proposed Amendment was mailed to DLCD: \_\_\_\_\_

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

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

**The applicant seeks to re-designate and rezone approximately 5 acres from Neighborhood Commercial (NC) to Planned Residential Development (R-3).**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

N/A

Plan Map Changed from: Neighborhood Commercial to: Planned Residential Develop

Zone Map Changed from: NC to: R-3

Location: Within City Limits Acres Involved: 5

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: 9 & 10

Was and Exception Adopted?  YES  NO

DLCD File No.: 015-06  
(NOA)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

**DLCD**

Local Contact: **Chuck McGraw** Phone: **(541) 475-3388** Extension: \_\_\_\_\_

Address: **71 SE D Street** City: **Madras**

Zip Code + 4: **97741-1685** Email Address: **cmcgraw@ci.madras.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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

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 copy this form on to 8-1/2x11 green paper only; or 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.

## **ORDINANCE NO. 767**

### **AN ORDINANCE AMENDING THE CITY OF MADRAS COMPREHENSIVE PLAN AND ZONE MAP FOR THE REZONE OF 5+ ACRES FROM NC (NEIGHBORHOOD COMMERCIAL) TO R-3 (PLANNED RESIDENTIAL DEVELOPMENT), AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Madras adopted its Comprehensive Plan and Zone Map in 1970 whereby Plan Designations and Zones were adopted to regulate growth within the City's Urban Growth Boundary; and

**WHEREAS**, the applicant, H & B Development, is requesting a rezone of the 5+ acres, further described as being a portion of Map #11-13-1DB, Tax Lot #100 (Community Development Department Application #RZ-06-2), from NC (Neighborhood Commercial) to R-3 (Planned Residential Development), to allow future residential development at higher densities than those provided by the R-1 (Single-Family Residential) zone; and

**WHEREAS**, the proposed amendment was presented to the City Planning Commission on April 5, 2006 for review and comment through the public hearing process; and

**WHEREAS**, the staff report indicated that in 1996, at the owner's request, the subject property, and the rest of Tax Lot #100, was rezoned from R-1 (Single Family Residential) to R-3 (Planned Residential Development); and

**WHEREAS**, in approximately 2003, the City of Madras approved a legislative Comprehensive Plan and Zone Map change that re-designated the subject 5+ acres from R-3 (Planned Residential Development) to NC (Neighborhood Commercial); and

**WHEREAS**, the City inadvertently failed to notify the property owner, at that time, that the property was being rezoned to Neighborhood Commercial; and

**WHEREAS**, the subject property is part of an approved subdivision plat called "Morning Crest Estates", and the area rezoned by the City actually rezoned portions of Phases 5, 6, and 7 of the approved subdivision plat; and

**WHEREAS**, the applicant, H & B Development, requested that this portion of the subdivision be rezoned back to R-3 (Planned Residential Development) so development of the approved subdivision could continue; and

**WHEREAS**, the Planning Commission found that the proposed change would be in conformance with statewide planning goals, and that there is a demonstrated need for the proposed change; and

**WHEREAS**, after considering staff's findings and all written and oral testimony from the public, the Planning Commission forwarded a recommendation to the City Council that the Council approve the rezone, as proposed; and

**WHEREAS**, the City Council, on May 9, 2006, held a public hearing to consider the request for rezone, and to receive comments from the public; and

**WHEREAS**, after considering staff's findings, considering all written and oral testimony from the public, and considering the Planning Commission's recommendation, the City Council deliberated the matter fully, and agreed with the Planning Commission's recommendation to approve the proposed rezone of 5+ acres from NC (Neighborhood Commercial) to R-3 (Planned Residential Development), as requested by the applicant.

**NOW, THEREFORE**, the City of Madras ordains as follows:

**SECTION 1:**      **FINDINGS**

The City Council hereby finds that the proposed change is in conformance with statewide planning goals and, based on a recent buildable lands analysis which shows that Madras currently does not have enough land zoned for high density residential development, finds that there is a demonstrated need for the proposed zone change.

**SECTION 2:**      The City of Madras Comprehensive Plan and Zone Map shall be amended to rezone the 5+ acres identified on the Jefferson County Assessor's Map as being part of Township 11, Range 13, Section 1DB, Tax Lot #100, and further described in attached Exhibit "A", from NC (Neighborhood Commercial) to R-3 (Planned Residential Development).

**SECTION 3:**      The Findings of Fact and Conclusions in support of the amendment, attached hereto as Exhibit "B", shall hereby be adopted and by this reference incorporated herein.

**SECTION 4:**      **NOTIFICATION TO AGENCIES**

The City's Community Development Department shall provide the Jefferson County Clerk and Jefferson County Assessor with a copy of the approved ordinance, shall forward a copy of the ordinance to the Oregon Department of Land Conservation and Development, and shall notify other agencies that are entitled to notification once the ordinance has been signed.

**SECTION 5: SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

**SECTION 6: AMENDMENT**

This ordinance may be amended or repealed as provided by law.

**SECTION 7: CORRECTIONS**

This ordinance may be corrected by order of the City Council to cure editorial and clerical errors.

**SECTION 8: EMERGENCY CLAUSE**


The City Council of the City of Madras, having reviewed the Comprehensive Plan of the City of Madras, and the need for enactment of ordinances to regulate land use within the City does hereby determine that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Madras and an emergency is hereby declared to exist, and this Ordinance shall become in full force and effect from and after the date it is enacted and signed by the Mayor.

ADOPTED by the City Council of the City of Madras this 25<sup>th</sup> day of July, 2006.

Ayes:	<u>5</u>
Nays:	<u>0</u>
Abstentions:	<u>0</u>
Absent:	<u>1</u>
Vacancies:	<u>0</u>

  
Frank E. Morton, Mayor

ATTEST:

  
Karen J. Coleman, City Recorder

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**FIVE (5) ACRES MORE OR LESS LOCATED IN THE  
SOUTHEAST CORNER OF ASSESSOR'S MAP #11-13-1 DB,  
TAX LOT #100, AND DEPICTED ON THE MAP ATTACHED AS  
EXHIBIT "C" TO CITY OF MADRAS ORDINANCE NO. 767.**

**CITY OF MADRAS**  
**FINDINGS AND RECOMMENDATION**

**REQUEST:** Re-zone the subject 5± acres from Neighborhood Commercial (NC) to Planned Residential Development (R-3) to allow the continuation of the development in Morning Crest subdivision.

**FILE NUMBER:** RZ -06-2

**APPLICANT/ OWNER:** H & B Development, 19431 SW Brookside Way, Bend, OR 97702

**DATE:** May 2, 2006

**APPLICABLE ORDINANCE PROVISIONS**

1. City of Madras Comprehensive Plan, Administrative Procedures,  
-Quasi-judicial Revision

**EXHIBITS**

1. Application, burden of proof statement, and all other materials submitted by the applicant.
2. Vicinity Map
3. Public Notice to adjoining property owners dated March 15, 2006.

**FINDINGS OF FACT**

1. **Location:** The subject property is located at the southeast corner of tax lot 100, and is at or near the future intersection of NE Begonia Street and NE Posey Court, and further described as being T11. R13, Section 1DB, tax lot 100.
2. **Zone, Map and Comprehensive Plan Designation:** The property is currently zoned Neighborhood Commercial (NC) on the City of Madras Comprehensive Plan and Zoning Map.
3. **Site Description and Surrounding Land Uses:** The subject property is relatively flat and is currently being developed as part of the Morning Crest subdivision. The property to the east is zoned R-1 and is in the process of being subdivided into Cascade View



Estates. The property to the north and west is currently being developed with single family residences in the first couple of phases of Morning Crest subdivision. The property to the south is zoned Planned Residential Development (R-3).

4. **Proposal:** Change the existing Comprehensive Plan and Zone Map designation of the property from Neighborhood Commercial (NC) to Planned Residential Development (R-3) so that the subject 5± acres can be developed as part of the Morning Crest subdivision.
5. **Agency and Neighbor comments:** Staff didn't receive comments from any of the affected agencies or any of the surrounding property owners.

## **CONCLUSIONARY FINDINGS:**

### 1. **ADMINISTRATIVE PROCEDURES.**

In order to submit a favorable recommendation for the proposed change to the City Council, the Planning Commission shall establish the compelling reasons and make Findings of Facts for the proposed change. These include:

1. The proposed change will be in conformance with statewide planning goals.
2. There is a demonstrated need for the proposed change.

### **FINDING:**

In 1996, at the owner's request, the subject property, and the rest of tax lot 100, was rezoned from Single Family Residential (R-1) to Planned Residential Development (R-3).

In approximately 2003, the City of Madras approved a legislative Comprehensive Plan and Zone Map change that re-designated the subject 5± acres from Planned Residential Development (R-3) to Neighborhood Commercial (NC).

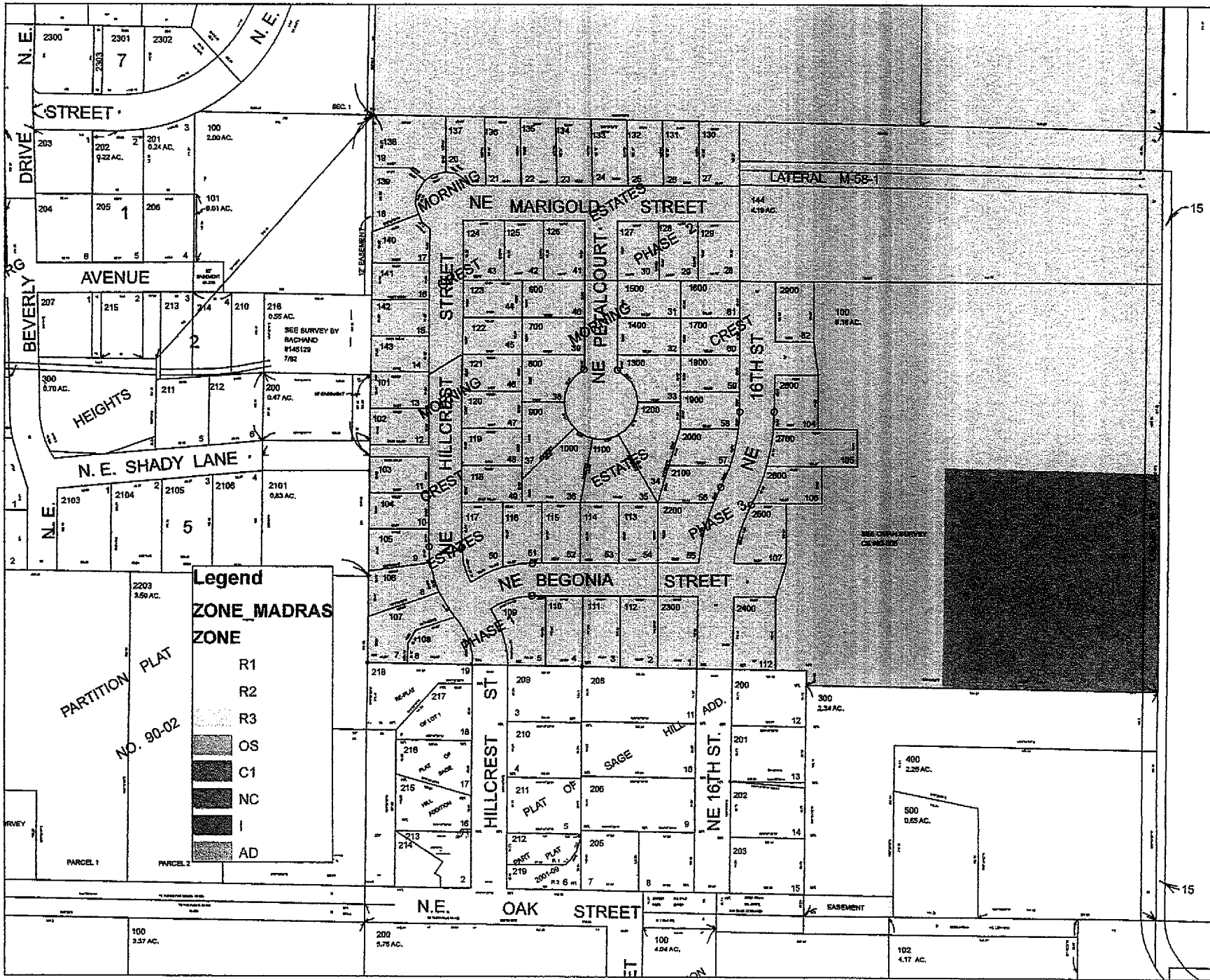
This action was done without notifying the property owner that the City was going to rezone the property.

The subject property is actually part of an approved subdivision plat called Morning Crest Estates, more specifically, the area rezoned by the city actually rezoned portions of Phases 5, 6, and 7 of the approved subdivision plat.

The applicant would like the portion of the subdivision rezoned back to Planned Residential Development (R-3) so he can continue to build the approved subdivision.

## **RECOMMENDATION**

The Planning Commission recommends that the City Council approve the proposed Plan and Zone Map amendment to re-zone the subject property from Neighborhood Commercial (NC) to Planned Residential Development (R-3).



**Legend**

**ZONE MADRAS**

**ZONE**

- R1
- R2
- R3
- OS
- C1
- NC
- I
- AD

PARTITION PLAT  
NO. 90-02

NW1/4 SE1/4 SECTION 1 T.11S. R.13E. W.M.  
JEFFERSON COUNTY

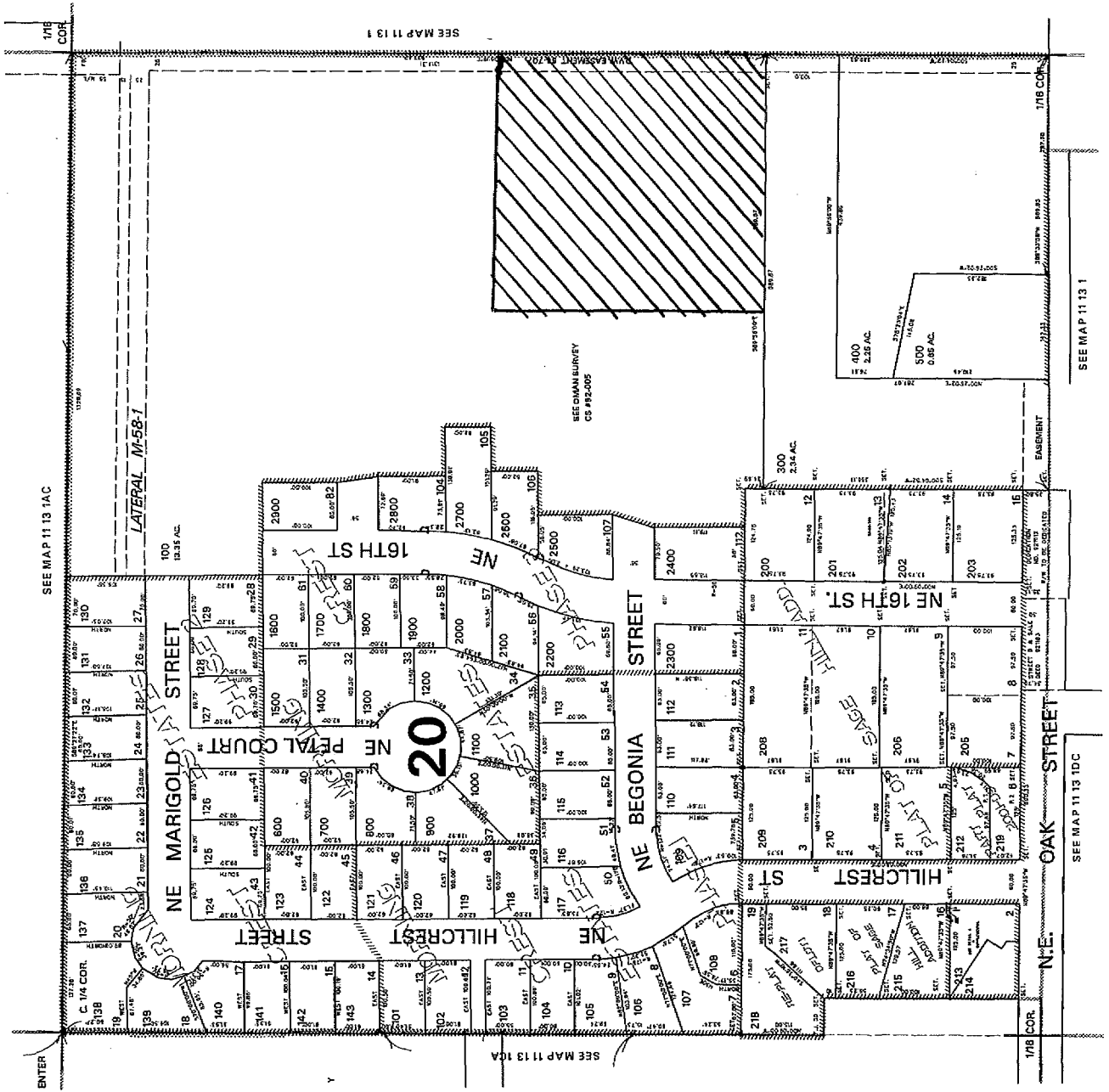
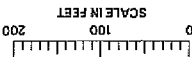
11 13 1DB

CANCELLED NO.  
207

EXHIBIT "C"

11 13 1DB

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY



SEE MAP 11 13 1AC

SEE MAP 11 13 1

SEE MAP 11 13 1

SEE MAP 11 13 1DC

Revised: 02/09/06