



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

September 18, 2007

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 007-07



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 2, 2007

This amendment was not submitted to DLCD for review prior to adoption. 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.

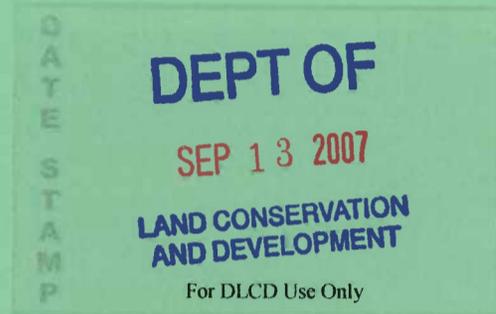
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

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

<paa>

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-07-2
Date of Adoption: 8/28/2007 Date Mailed: 8/28/2007
Date original Notice of Proposed Amendment was mailed to DLCD: 8/28/2007

- 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".

Rezone from R-1 to R-3 propety at the southwest corner of Belmont Lane and Culver Highway. Tax Map#11-13-11 CD #100 & 102.

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: _____ to: _____

Zone Map Changed from: R-1 to: R-3

Location: Belmont Lane and Culver Hwy Acres Involved: 3.9 +/-

Specify Density: Previous: 7500 Square Foot Lots New: 6000 Square Foot Lot

Applicable Statewide Planning Goals: 2, 10 & 11

Was and Exception Adopted? YES NO

DLCD File No.: 007-07 (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:

DVWD; Jefferson County Rural Fire District #1; City of Madras, Oregon DLCD

Local Contact: **Mike Morgan** Phone: **(541) 475-2344** Extension: _____
Address: **71 SE D Street** City: **Madras Oregon**
Zip Code + 4: **97741-** Email Address: **mmorgan@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 **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 793

AN ORDINANCE AMENDING THE CITY OF MADRAS COMPREHENSIVE PLAN AND ZONE MAP FOR THE REZONE OF APPROXIMATELY 3.9 ACRES OF R-1 (SINGLE-FAMILY RESIDENTIAL) PROPERTY 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 applicants (Belmont Lane Properties, LLC) are requesting a rezone of approximately 3.9 acres (Map #11-13-11 CD, Tax Lots #100 and #102) from R-1 (Single-Family Residential) to R-3 (Planned Residential Development); and

WHEREAS, the Planning Commission held a public hearing on June 20, 2007 to accept testimony from the public on the proposed rezone application; and

WHEREAS, the Planning Commission after considering all written comments and public testimony found that the applicant's Burden of Proof Statement supports the conclusion that the application is in conformance with Statewide Planning Goal 2, that the City of Madras has an acknowledged Comprehensive Plan as required by Goal 2, and that DLCD acknowledgment means such plans are in compliance with the Statewide Planning Goals; and

WHEREAS, the applicants stated that this proposal is in conformance with Goal 10, the Housing Goal, because in this case, the proposed zone change will still allow the same housing type, primarily single-family residential with multi-family residential allowed as a conditional use, but will allow a greater density of development to occur; and

WHEREAS, the Planning Commission found that the applicant's Burden of Proof Statement supports the conclusion that the application is in conformance with Goal 10, because the proposed zone change will allow the same housing type, will create a negligible affect on the public infrastructure and livability of the surrounding area, and will, at build-out, provide the mix, type and density of housing that was envisioned when the Comprehensive Plan was adopted for the urban area; and

WHEREAS, the applicants stated that this proposal is in conformance with Goal 11, Public Facilities and Services, because the proposed zone change will not have an impact on the availability of public facilities and services available to the site; and

WHEREAS, the Planning Commission found that the applicant's Burden of Proof supports the conclusion that the proposal is in conformance with Goal 11 based on the findings and the tentative subdivision plan which were filed concurrently with the zone change application in which the applicant addressed all public facility and service related issues and indicated that the public facilities and services are either adequate for the proposed subdivision or will be improved by the applicant to the degree necessary to mitigate the impacts; and

WHEREAS, a public hearing was held before the City Council of the City of Madras on July 24, 2007 to accept testimony from the public; and

WHEREAS, the City Council, after considering all written comments and public testimony, deliberated the matter fully and found that the applicant's Burden of Proof Statement supports the conclusion that the application is in conformance with Statewide Planning Goal 2, that the City of Madras has an acknowledged Comprehensive Plan as required by Goal 2, and that DLCD acknowledgment means such plans are in compliance with the Statewide Planning Goals, that the application is in conformance with Goal 10, because the proposed zone change will allow the same housing type, will create a negligible affect on the public infrastructure and livability of the surrounding area, and will, at build-out, provide the mix, type and density of housing that was envisioned when the Comprehensive Plan was adopted for the urban area, and that the proposal is in conformance with Goal 11 based on the findings and the tentative subdivision plan which were filed concurrently with the zone change application in which the applicant addressed all public facility and service related issues and indicated that the public facilities and services are either adequate for the proposed subdivision or will be improved by the applicant to the degree necessary to mitigate the impacts; and

WHEREAS, the City Council found that the applicant has met the criteria in proving that there is rationale to change the zoning designation from R-1 (Single-Family Residential) to R-3 (Planned Residential Development).

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

SECTION 1: COMPREHENSIVE PLAN AND ZONE MAP

The City of Madras Comprehensive Plan and Zone Map shall be amended to rezone approximately 3.9 acres of R-1 (Single-Family Residential) property, more particularly described as Jefferson County Assessor's Map #11-13-11 CD, Tax Lots #100 and #102, to R-3 (Planned Residential Development).

SECTION 2: FINDINGS OF FACT

The Findings of Fact in support of the amendment, attached hereto as Exhibit "A", are hereby adopted and incorporated herein.

SECTION 3: 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 4: CORRECTIONS

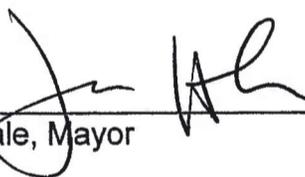
This ordinance may be corrected by order of the City Council to cure editorial and clerical errors.

SECTION 5: 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.

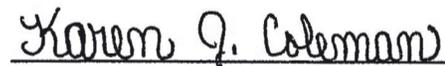
ADOPTED by the City Council of the City of Madras this 28th day of August, 2007.

Ayes: 4
Nays: 0
Abstentions: 0
Absent: 2
Vacancies: 0



Jason Hale, Mayor

ATTEST:



Karen J. Coleman, City Recorder

BELMONT LANE REZONE (RZ-07-1)

EXHIBIT "A"

**CITY OF MADRAS
FINDINGS AND RECOMMENDATION**

REQUEST: A change to the Zoning Designation from R-1, Single Family Residential to R-3, Planned Residential Development, and a 17-lot subdivision (based on the R-3 zoning designation) of a +/-3.9 acre property located at the southwest corner of Belmont Lane and Culver Highway. Subdivision Name: Belmont Basin.

FILE NUMBER: RZ -07-1

APPLICANT: Belmont Lane Properties LLC
920 NW Bond Street, Suite 200
Bend, OR. 97701
Contact: James Lewis
(503) 930-8326

OWNER: Brent Woodward
3743 N. Highway 97
Redmond, OR 97756

Travis & Wendy Smith
804 NE Yucca
Redmond, OR 97756

ENGINEER: D'Agostino Parker LLC
231 Scalehouse Loop, Suite 203
Bend, OR 97702
Keith D'Agostino. Principal
(541) 322 8807

DATE: June 13, 2007

APPLICABLE ORDINANCE PROVISIONS

RZ 07-1
Belmont Basin

1. City of Madras Comprehensive Plan, Administrative Procedures,
-Quasi-judicial Revision
2. Article 8, Section 8-12.8.2
- Zone/Plan map Amendments

EXHIBITS

The following exhibits have been submitted with this application:

1. Title Report
2. Deed of Ownership
3. Owner's Consent to Application – Owner Authorization Letter
4. Vicinity Map
5. Notice to adjoining property owners dated June 11, 2007.

FINDINGS OF FACT

1. **Location:** The subject property is comprised of two tax lots totaling approximately 3.9 acres located at the southwest corner of the intersection of Belmont Lane and the Culver Hwy. The property is within the City limits, and is identified on the Jefferson County Assessor's map as T11S, R13E, Section 11CD, tax lots 100 and 102.
2. **Zone, Map and Comprehensive Plan Designation:** The property is zoned Single Family Residential (R-1) on the City of Madras Comprehensive Plan and Zoning Map.
3. **Site Description and Surrounding Land Uses:** The subject property is fairly level, but slopes very gradually downward from the southwest toward the northeast. The property is currently undeveloped and is vegetated with grasses that have re-grown since previous clearing of the property.

The property is bounded by Belmont lane on the north and Culver Highway on the east. To the north, across Belmont Lane, is vacant property zoned NC-Neighborhood Commercial and residentially developed property zoned R-3. To the east, across Culver Highway, is residentially developed property zoned R-1 and R-2. The property to the east is vacant and zoned R-1 – however, a single family residential subdivision has been approved for this area and is currently under development. To the south the properties are zoned R-1, but have development consisting of Qwest Communications shop facilities and the Deschutes Valley Water District facilities (thus, these uses are not consistent with the zoning designation. Thus, there is a mixture of zoning designations and uses that surround the property and that exist in the immediate area.

4. **Proposal** The request is to rezone the 3.9 acre property from R-1, Single Family Residential to R-3, Planned Residential Development, and a to develop 17-lot subdivision (based on the R-3 zoning designation) with lots ranging in size from Just

over 6,000 square feet to approximately 7,500 square feet in area. Primary access into the subdivision will be off of Belmont Lane via a southward extension of Cedar Hill Road which intersects with Belmont from the north. Belmont Lane is designated as a Collector Street in the City of Madras Transportation System Plan (TSP).

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 a finding of fact for the proposed change. These include:

1. The proposed change will be in conformance with statewide planning goals.

FINDING:

The Planning Commission finds that the proposed zone change from R-1 to R-3 is from one "residential" designation to another within the Madras City Limits. These designations have been adopted as part of the City of Madras Comprehensive Plan and Zoning Code (including Plan and Zoning text and maps). The Madras Comprehensive Plan and Zoning Code/Maps have been acknowledged by the Oregon Department of Land Conservation and Development and, as such, have been deemed to be in compliance with all applicable state statutes and administrative rules. It is the local Comprehensive Plan and Zoning codes that implement the state laws and rules – thus, compliance with local laws ensures compliance with state requirements. The Planning Commission finds that by showing compliance with these criteria for a zoning map amendment, the proposal will be in conformance with all applicable state statutes.

2. There is a demonstrated need for the proposed change.

FINDING:

The Planning Commission finds that Goals 2 – Land Use Planning, 10 - Housing and 11 – Public Facilities and Services are the applicable goals. These are addressed below.

Goal 2: The Planning Commission finds that the proposal is in conformance with the Madras Comprehensive Plan Map because it entails a change of zoning that is from one residential designation to another (R-1 to R-3). Both zones are intended primarily for single family residential development. The Plan goals and policies are addressed in Criterion #3 below. As also stated above, the Madras Comprehensive Plan and Zoning Code/Maps have been acknowledged by the Oregon Department of Land Conservation and Development

(DLCD) and, as such, have been deemed to be in compliance with all applicable state statutes and administrative rules. The DLCD acknowledgement also means such plans are in compliance with the Statewide Planning Goals. It is the local Comprehensive Plan and Zoning codes that implement the state laws and rules – thus, compliance with local laws ensures compliance with state requirements. By showing compliance with these criteria for a zoning map amendment, the proposal will be in conformance with all applicable statewide planning goals.

Goal 10: The Planning Commission finds that Goal 10 requires that local governments plan for adequate and varying housing types and densities to sustain expected growth within the urban area during the 20-year comprehensive planning period. In this case, the proposed zone change will still allow the same housing type – primarily single family residential with multi-family allowed as a conditional use, but will allow a greater density of development to occur since the R-3 zone has a smaller minimum lot size than does the R-1 zone. In this case though, the increased density of the R-3 zone will only allow approximately three additional lots over and above the density that would be possible in the R-1 zone on this 3.9 acre parcel (17-lots as proposed under R-3 zoning rather than 14-lots under R-1 zoning). The small increase in density and number of housing units possible allows the uniquely configured and sized property to feasibly be subdivided as an “in-fill” development given the need for street right of way dedications and cost for public infrastructure to develop the site. At the same time, the minor increase in impacts associated with the zone change will have a negligible affect on the public infrastructure and livability of the surrounding area. Ultimately, the housing type and density will be in the same design and proportions as the mix of development types in the surrounding neighborhoods. At build-out, the single family residential development will provide the mix, type and density of housing that was envisioned when the Comprehensive Plan was adopted for the urban area.

Goal 11: The Planning Commission finds that Goal 11 requires Cities to plan for adequate infrastructure for expected level of development within the urban area. The City of Madras has an acknowledged Comprehensive Plan, which establishes intended densities for residential development, and a Transportation System Plan and Sewer Master Plan, which shows how planned urban areas will be served with such services. The applicant contends that the zone change in and of itself will not have an impact on the availability of public facilities and services available to the site, rather, it is the future development of the site. In this regard, all public facilities (water, sewer and streets) as well as public utilities (electric) are available for development. As is stated in the portion of this document that addresses public facilities and services in relation to the proposed subdivision, the adequacy of all such services and infrastructure must be demonstrated by the applicant – or such facilities must be improved based on the proportionality of the degree of impact expected. The Planning Commission finds that the applicant has addressed all public facility and service related issues as part of the subdivision application. Those proposed findings and the tentative plan indicate that the public facilities and services are either adequate for the proposed subdivision or will be improved by the applicant to the degree necessary to mitigate the impacts. All improvements and dedications will be done in conformance with adopted City of Madras standard.

3. In conformity with the Madras Comprehensive Plan, Zoning and Land Use Ordinance,
RZ 07-1
Belmont Basin

and polices;

FINDING:

It was stated previously in this document that the proposed zone change from R-1 to R-3 is from one "residential" designation to another within the Madras City Limits. These designations have been adopted as part of the City of Madras Comprehensive Plan and Zoning Code (including Plan and Zoning text and maps). Thus, this application is for a zone change only and the proposal is in compliance with the Comprehensive Plan Map designation of "residential." The zone change proposal is running concurrent with an application for a 17-lot subdivision of the subject property.

On the basis that the comprehensive plan designation and underlying zoning designation both intend the primary use of the property for single-family residential development (permitted outright in both the R-1 and R-3 zones), staff finds that the proposal will continue to be in conformity with the Madras Comprehensive Plan and Zoning/Land Use Ordinance upon future development according to City standards.

4. That there is a change in circumstances or further studies justifying the amendment or mistake in the original zoning.

FINDING:

The Planning Commission finds that the subject property was designated R-1 on the Madras Comprehensive Plan and Zoning map when originally adopted in 1979. Since that time, surrounding properties have developed and additional studies, plans and maps have been adopted by the City of Madras, all of which affect the ability to develop and the desirability of the subject property for single-family residential uses.

The City of Madras adopted a Transportation System Plan which identified necessary street improvements for build-out of the Urban Area. As part of the TSP, the City has adopted the Madras Truck Route/By-pass which has identified the Culver Highway adjacent to the property as the preferred alignment for eventual widening and delineation for truck traffic through the community. Additionally, Belmont Lane, which is designated as a major collector street on the TSP, will have a signalized intersection with Culver Highway adjacent to the northeast corner of the property. These requirements will necessitate the dedication of additional road right of way that was not contemplated when the property was originally created in its current configuration and designated R-1. These designs and plans (which necessitate new dedications and expanded street designs) were not in place when the subject property was originally zoned R-1.

The Planning Commission finds that the City is currently in the process of adopting the Culver Highway Sewer Main Reimbursement District for the eventual construction of a new sewer main/interceptor to serve the southwest Madras basin. This district was necessitated by growth and development in the area. The ordinance adopting the district requires a "per lot" cost as a contribution to pay for the expanded sewer system. The per lot cost and need for an

expanded sewer system was not anticipated when the subject property was originally zoned R-1.

Based on these findings, staff finds that there have been further studies and significant changes in the anticipated development pattern and development of infrastructure in the surrounding area since the original zoning designation was applied.

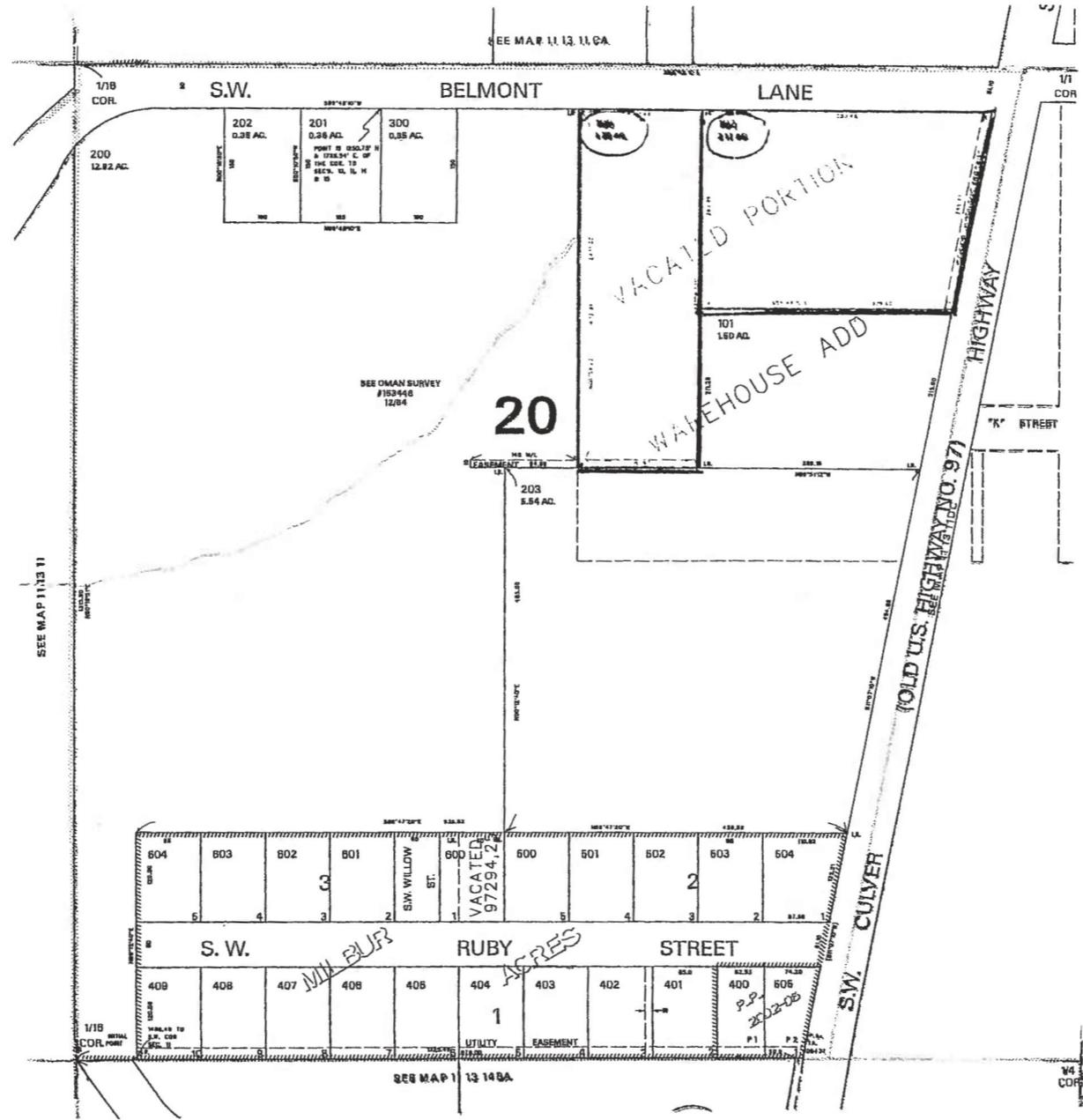
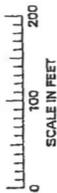
RECOMMENDATION

The Planning Commission recommends that the City Council approve the proposed Plan and Zone Map amendment to re-zone the subject property from Single Family Residential (R-1) to Planned Residential Development (R-3), and adopting the Conclusionary Findings in support of the Plan and Zone Map amendment.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

SE 1/4 SW 1/4 SECTION 11 T11N R13E
JEFFERSON COUNTY
1"=100'

111 CD



Revised: 04/04/08

11 13 11CD