



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

7/27/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Jefferson County Plan Amendment
DLCD File Number 002-09

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, August 07, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Susanna Julber, Jefferson County
Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Doug White, DLCD Community Services Specialist

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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: *Jefferson County*

Local file number: *DB-PA-04*

Date of Adoption: *7/8/09*

Date Mailed: *MAILED 7/15/09*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date:

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".

Applicant, Clyde (Mike) and Joanne Lee Adair and Wague, Phyllis, and Norma Lee received approval for a zone change/plan amendment to change the map designation from RL to RB10. Property is 92 acres.

Does the Adoption differ from proposal? Please select one *No.*

Plan Map Changed from: *Rangeland* to: *Rural Land*

Zone Map Changed from: *EFV-RL* to: *RB-10.*

Location: *Southeast of City of Madras, west of Metasart rd.* Acres Involved: *92.00*

Specify Density: Previous: *160-acre min.* New: *10-acre min.*

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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

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

Local Contact: Susanna Julber, Associate Planner Phone: (541) 475 4462 Extension:
Address: 85 SE 10' st. Fax Number: -325 5001
City: Madras Zip: 97741 E-mail Address: susanna.julber@co.jefferson.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.

**BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON FOR
THE COUNTY OF JEFFERSON**

**IN THE MATTER OF AN AMENDMENT TO)
THE COMPREHENSIVE PLAN MAP AND)
ZONING MAP, AND EXCEPTION TO) Ordinance No. O-081-09
STATEWIDE PLANNING GOAL 3)**

WHEREAS, Wayne, Phyllis, and Norman Lee, and JoAnne Lee Adair and Mike Adair own a 92-acre parcel located west of SE McTaggart Road, south of SE Buff Street, adjacent to the Madras City Limits, and north of the Canyonview Subdivision, tax lot 11-13-13-101. The property is zoned and designated Exclusive Farm Use Range Land (RL) on the Jefferson County Zoning Map and Comprehensive Plan Map. The owners submitted an application for a Comprehensive Plan map and Zoning map amendment and an exception to statewide planning Goal 3 in order to rezone the property to Rural Residential RR-10 to establish a ten-acre minimum lot size; and

WHEREAS, the Jefferson County Planning Commission held a public hearing on April 9, 2009, at which time they considered the staff report and accepted testimony on the application; and

WHEREAS, the Planning Commission found that the proposal was consistent with the Comprehensive Plan, statewide planning goals and Oregon Administrative Rules, and by a vote of 7 in favor and none opposed voted to recommend that the Board of Commissioners approve the amendment; and

WHEREAS, the Jefferson County Board of Commissioners conducted a public hearing on May 27, 2009, and accepted testimony in favor of the application. No persons appeared to testify in opposition to the application or submitted written testimony in opposition. At the conclusion of the hearing, the Board closed the record and deliberated on the application. After considering the Planning Commission recommendation and testimony, the Board voted unanimously to **AFFIRM** the Planning Commission recommendation;

NOW THEREFORE, the Jefferson County Board of Commissioners hereby **ORDAINS** as follows:

1. **Adoption of Comprehensive Plan Map Amendment**

Jefferson County hereby **AMENDS** the Comprehensive Plan map to change the designation of tax lot 11-13-13-101 from RL to Rural Land.

2. **Adoption of Zoning Map Amendment**

Jefferson County hereby **AMENDS** the Zoning Map to change the zoning of tax lot 11-13-13-101 from Exclusive Farm Use RL to Rural Residential RR-10.

3. **Adoption of Exception**

Jefferson County hereby takes an exception to statewide planning Goal 3 and for tax lot 11-13-13-101, and incorporates the justification for the exception into Appendix II of the Comprehensive Plan.

4. **Adoption of Findings**

The Board of Commissioners hereby find that the amendments and exception are in conformance with applicable statewide planning goals, administrative rules, Comprehensive Plan and Zoning Ordinance, as set forth in the findings of fact set forth in the Planning Commission recommendation (Exhibit A) and the applicant's findings submitted to the Community Development Department on May 12, 2009 (Exhibit B), which is incorporated herein by this reference.

Dated this 8TH day of July, 2009.

BOARD OF COMMISSIONERS:

John Hatfield
John Hatfield, Commission Chair

Mike Ahern
Mike Ahern, Commissioner

Wayne Fording
Wayne Fording, Commissioner

Attest:

Donna Jansen

Appeal Information

Planning Casefile #08-PA-04

This decision may be appealed to the Land Use Board of Appeals within 21 days of the Jefferson County Board of Commissioners Decision. Oregon Revised Statute (ORS) 197.830 sets forth the review procedures. Copies of the Board of Commissioners decision and the state statute are available from the Community Development Department located at 85 SE "D" Street, Madras, Oregon 97741.

Board of Commissioners adoption date: July 8, 2009

The complete file is available for review at the Jefferson County Community Development Department. For further information, contact the Community Development Department. Phone (541) 475-4462.

Mailed to
P.O.R. on
7/13/09
Recvd from
Donna on 7/10/09

Before the Planning Commission of Jefferson County

| | | |
|--|---|-------------------------------|
| In the Matter of a Comprehensive Plan Map |) | |
| Amendment, Zoning Map Amendment and |) | |
| Exception to Goal 3 to rezone 92 acres |) | Application # 08-PA-04 |
| from Exclusive Farm Use RL to Rural |) | |
| Residential 10-Acre Minimum |) | |

I. Background

An application was submitted by Wayne Lee, Phyllis Lee, Norman Lee, JoAnne Lee Adair, and Mike Adair for a quasi-judicial revision to the Comprehensive Plan Map and Zoning Map to re-designate and re-zone 92 acres from Range Land to Rural Residential (RR-10). The property consists of tax lot 101 in T11S, R13E, Section 13. The property is located west of SE McTaggart Road, south of Buff Street, adjacent to the Madras City Limits. The applicant submitted for an "irrevocably committed" exception to Goal 3.

II. Applicable Criteria

Jefferson County Comprehensive Plan Part 5, Quasi-Judicial Revisions; Chapter 8 of the 2007 Jefferson County Zoning Ordinance, OAR 660-004-0018 and 660-004-0028; Statewide Planning Goals.

III. Public Hearing

A public hearing was held on April 9, 2009, during which time the Planning Commission reviewed the staff report and accepted public testimony.

IV. Recommendation

Based on the findings and conclusions in the staff report, the Jefferson County Planning Commission, by a vote of seven in favor and none opposed, recommends that the Board of Commissioners approve Casefile 08-PA-04 to amend the Comprehensive Plan Map designating Tax Lot 101 in T11S, R13E, Section 13 as Rural Land; and to amend the Zoning Map, rezoning these same tax lots to RR-10, and granting an exception to Goal 3.

Signed Donald Martin

Date 15 APR 09

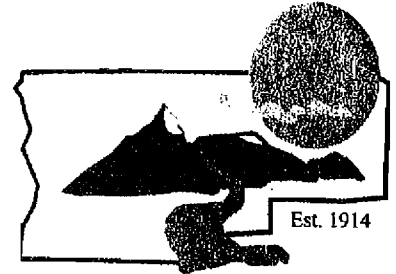
Donald Martin, Chair, Jefferson County Planning Commission

EXHIBIT A

JEFFERSON COUNTY

COMMUNITY DEVELOPMENT DEPARTMENT

85 S.E. "D" St., Suite A • Madras, Oregon 97741 • Ph: (541) 475-4462 • FAX: (541) 325-5004



April 9, 2009 Hearing

STAFF REPORT

CASEFILE 08-PA-04

Applicant/

Owners: Wayne Lee, Phyllis Lee, Norman Lee, JoAnne Lee Adair, Mike Adair

Agent: Leslie Ann Hauer
6100 Collins Road
West Richland, WA 99353

Request: A request to change the Comprehensive Plan Map designation from Rangeland to Rural Land; and to change the Zoning Map designation from Exclusive Farm Use-Range Land (RL) to Rural Residential RR-10; and take an Exception to Statewide Planning Goal 3.

Tax Lot: T11S, R13E, Section 13, Tax Lot 101

Location: The property is located west of SE McTaggart Road, south of SE Buff Street, adjacent to the Madras City Limits and north of Canyonview, a County subdivision. Willow Creek lies to the east of the site. The site is currently developed with a 13.9-acre golf driving range, small sheds, and a recreational trailer.

Planning Designation: Range Land

Zoning: Exclusive Farm Use Range Land (EFU RL)

Size: 92 Acres.

Soils: According to the NRCS Soil Survey, the property is composed of the following soils:

- A. 44B, Era Sandy Loam 3-8% slopes, agricultural capability class 6 if non-irrigated, 3 if irrigated. This soil type is located through the center of the site and includes 13.9 acres that are irrigated.
- B. 79C Lickskilet and Redcliff very gravelly loam, 0-15% slopes, Lickskilet land capability class 7, and Redcliff land capability class 6.

- C. 80D Lickskilet-Redcliff very gravelly loam, 15-30% slope, land capability class 7.
- D. 80E Lickskilet-Redcliff very gravelly loam, 30-60% slope, land capability class 7.

The applicant provided a *Soil Investigation* produced by Wert and Associates, Inc., which describes the soil conditions of the site. The site is comprised of two soil types, Era Sandy Loam and Lickskilet-Redcliff Very Gravelly Loam, with variations in the latter soil type due to varying slopes. The site has 13.9 acres of irrigation rights, which are used to water the existing driving range on the property where the high value soil is located. Based on the findings of the Soil Investigation, the site contains 30% Class 3 and 6 soils, and 70% Class 7 soils, making the site predominantly non-agricultural. A more thorough discussion of the soil types on the site is provided on pages 6 and 12 of this recommendation.

Lot Legality: Tax lot 11-13-13-101 is a legal parcel created by partition in 1990 through Partition Plat #1991-04, according to County Assessor records.

APPLICABLE STANDARDS:

Part 5 of the 2007 Jefferson County Comprehensive Plan; Chapter 8 of the 2007 Jefferson County Zoning Ordinance (JCZO); OAR 660-004-0018 and 660-004-0028.

FINDINGS OF FACT:

A. A Comprehensive Plan Map amendment is required to change the designation of the property from Range Land to Rural Land. 2007 Jefferson County Comprehensive Plan Part 5, Quasi-Judicial Amendments, states that in order to be approved, the proposed amendment must:

1. *Comply with applicable Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules, or comply with requirements for an exception to the goal(s);*

Finding: The County's Comprehensive Plan is under appeal, and has not been acknowledged by DLCDC. Consequently, the Statewide Planning Goals are directly applicable to the application. Compliance with the Goals is addressed in finding C. Oregon Revised Statutes (ORS) 197.732 states that a local government may adopt an exception to a goal, subject to compliance with [administrative] rules adopted by LCDC. The Administrative Rule requirements for taking an exception are addressed in finding D.

2. *Comply with all applicable Comprehensive Plan goals and policies; and*

Finding: The following Comprehensive Plan policies are applicable to the application:

Goal 1: Citizen Involvement

Policy 2: Provide maximum opportunity for citizen participation in the land use permitting process.

2.1 *The County will notify surrounding and nearby property owners and other persons or agencies that might be affected by proposed and tentatively approved land use actions, as required by state statute.*

2.2 *Notice of public hearings should be published in the Madras Pioneer and any local newspaper where a land use is proposed when the application is likely to generate public interest or concern.*

2.4 *Proposals for uses that may impact the surrounding area should be considered at a public hearing so that those who may be affected have the opportunity to express their concerns.*

Finding: The County noticed the Planning Commission Public Hearing in accordance with the requirements of Section 906, including noticing in the Madras Pioneer on April 1, 2009, and additionally, noticing by mail those property owners within 750 feet of the property on March 31, 2009. These notices provided the opportunity for public comment on the application, consistent with Comprehensive Plan Policy 2 for Citizen Involvement.

Goal 3: Agricultural Lands

Policy 1: Protect agricultural and range land which is presently under production, or has the potential to be productive.

1.1 *The County will preserve agricultural lands through Exclusive Farm Use Zoning, as required by state statute. Exclusive Farm Use lands shall include land that is predominantly agricultural capability classes I through VI, and lands in other classes which are interspersed or are necessary to permit farm practices to be undertaken on adjacent or nearby lands.*

Goal 3, policy 1.2: *Lands within the North Unit Irrigation District boundary should be zoned Exclusive Farm Use A-1. Dwellings that are not in conjunction with farm use should not be permitted in the A-1 zone in order to prevent adverse impacts to farming practices.*

Goal 3, policy 1.3: *Nonirrigated lands that are predominantly composed of agricultural capability class VI through VIII soil that is within or in close proximity to the North Unit Irrigation District boundary may be zoned Exclusive Farm Use A-2.*

Goal 3, policy 1.4: *Unirrigated agricultural land outside the boundaries of the North Unit Irrigation District that is composed of predominantly of Class IV through VII soils should be zoned Range Land.*

Finding: The subject property is in the NUID boundary, although only 13.9 acres of the 92-acre site has irrigation rights. The property is designated and zoned as Range Land, and Wert and Associates, Inc.'s soils analyses show that the property is predominantly comprised of Class VII soils. According to the soil surveys submitted by the applicant, the soils are not considered productive agricultural soils as they have poor water holding capacity, and the hilly terrain at the site limits its potential for agricultural use.

Goal 6, policy 1.4: *Subdivisions and partitions should be designed in a manner so that runoff will be retained on site and not flow into streams, roads, or adjacent properties.*

Goal 6, policy 1.7: *Impacts to surrounding lands should be considered before lands are rezoned. Impacts should be mitigated whenever possible, such as by providing buffers between different types of land use activities.*

Finding: Impacts related to Goal 6 include those that would inhibit the quality of the air, water, and land resources in the County. Upon review of the applicant's soils investigation by the County Engineer, he has concluded that there is the ability to feasibly provide on-site septic systems on the site, given the proposed 10-acre size of the parcels, and the soil capabilities.

The property has moderately steep slopes dropping off to SE McTaggart Road to the east. The addition of nine 10-acre lots to this site will not adversely affect drainage in the area, as the lots are large enough to handle runoff onsite and not adversely affect neighboring properties. At the time of future subdivision, drainage plans will be required to ensure that runoff to adjacent properties is limited.

Goal 7, policy 4.2: *Property in an agricultural or forest zone should not be rezoned to a rural residential or other nonresource zone unless structural fire protection can be provided.*

Finding: The property is in the Jefferson County Fire District #1, so structural fire protection could feasibly be provided.

Goal 10, policies:

- 1 *Sufficient rural residential land should be provided to meet the need to accommodate population growth and the demand for rural home sites outside city limits.*
 - 1.1 *Rural residential areas should have minimum lot or parcel sizes of from 2 to 20 acres. These sizes typically permit septic disposal systems while not increasing densities beyond levels which would conflict with other rural and agricultural uses.*
 - 1.2 *Increasing the density in existing rural residential areas is preferable to rezoning new areas, except when the existing area is in close proximity to a city and increasing the density would limit the ability of parcels to be used for future urban development.*
- 2 *Criteria for rezoning lands to Rural Residential should be established.*
 - 2.1 *Whenever possible, irrigated farm land should not be rezoned for rural residential development. Nonirrigated farm land or range land is more appropriate for rezoning, provided there will be no significant impact to nearby farming operations.*

- 2.2 *Whenever possible, areas proposed to be rezoned for rural residential development should be located near or adjacent to existing rural residential development, but should not be in a location where a city is likely to expand unless the minimum lot size will be ten acres or larger. Divisions of rural residential land near a city should include a shadow plat to show how the land can be efficiently redeveloped at an urban scale if annexed.*
- 2.3 *Areas proposed to be rezoned for rural residential development should have adequate water, road access, law enforcement, fire protection and schools.*

Finding: The proposal is for a maximum of nine 10-acre lots on the 92-acre subject site. The proposal is consistent with Policy 1.1, as the home sites will be within the range of 2 to 20 acres. The sites can be feasibly served with septic systems, according to the County Engineer.

The proposal complies with Policy 1.2. The site is located adjacent to the Madras City Limits and it is in close proximity to rural residential development with lots ranging in size from one to two acres on the north and south. The 10-acre lots will not impede the ability for the parcels to be subdivided in the future to accommodate higher density urban development. The existing use of the property as a driving range, which is not agricultural in nature, is consistent with Policy 2.1. The site is primarily non-irrigated farmland, with the exception of 13.9 acres of high value farmland that is currently irrigated for the driving range.

The proposal is consistent with Policy 2.2, as the subject site is located adjacent to existing rural residential development, is within an area proposed for the Madras URA, and is proposed as nine 10-acre parcels.

Adequate services may be available to serve the proposed development, in conformance with policy 2.3 as follows: Water is available from Deschutes Valley Water District, law enforcement would be provided by the County Sheriff's Department (though Sheriff Jones' does have some concern about serving growth outside the city limits), fire protection would be provided by Jefferson County Fire District #1, and the property is in the 509J school district. Specific requirements for infrastructure would be assessed during subdivision for the property.

The consistency of the proposal with transportation-related policies in the Comprehensive Plan is discussed on page 8.

Goal 13, policies:

- 1 *Conservation of energy should be considered when an application is submitted to rezone property.*
- 1.1 *Areas proposed to be rezoned to industrial, commercial or rural residential should be in close proximity to existing cities or rural communities in order to reduce transportation energy costs.*

Finding: The subject property is located directly adjacent to the Madras City Limits, and within the City of Madras's Urban Reserve Area (URA) Because the site is in close proximity to existing transportation networks, the transportation energy costs associated with the proposal will be minimal.

3. *Be necessary due to changes in physical, economic or social conditions, population growth, or development patterns which require an adjustment in the land use designations in the area where the amendment is proposed.*

Finding: The site's characteristics, and additionally, the surrounding land use characteristics, make farm use impracticable on the site. According to the applicant's soil analysis:

- The site is not large enough to form a sustainable economic unit, given the poor quality of the soils (70% of the site is Class VII soils), a lack of irrigation and poor water holding ability, and hilly terrain. Additionally, the site cannot be combined with adjacent properties due to the existing rural residential density of development (1.5 to 2-acre lots) and expanding urban levels of development within the City of Madras.
- Only 15 % of the site has an irrigation water right, and little realistic possibility of expanding the irrigated area as a reasonable investment, due to topography and soils.

The County's adopted Comprehensive Plan shows a population projection for 2008 of 22,642 people. The Certified 2008 Population Estimate by Portland State University is 22,450, slightly below the projection and an increase of 420 people over the 2007 estimate.

The City of Madras continues to grow, although more slowly than anticipated in 2008. In order to avoid converting productive farmland to residential use, it is most likely that the City will grow to the east. In addition, the County's Transportation System Plan (TSP) provides for future urban growth in this area by identifying a project to construct roundabouts and an extension of SE Fairgrounds Road through this property.

The physical location of this property in proximity to current development, along with predicted development patterns for the City of Madras, eventually requires an adjustment to the land use designation of this site. Also see page 21 of the applicant's submittal.

B. The proposal involves changing the Zoning Map designation from EFU RL to RR-10. Jefferson County Zoning Ordinance Section 803.2 contains the approval criteria for zoning map amendments, as follows:

An amendment to the Zoning Map may be approved if it complies with the approval criteria in this Section. The burden of proof is on the applicant to submit sufficient information to demonstrate that the application complies with the approval criteria. For instance, a traffic impact study in accordance with Section 421 may be needed to show compliance with criterion (F).

A. The zoning designation will conform to the Comprehensive Plan Map designation;

Finding: This application includes a request to change the Comprehensive Plan Map designation from Range Land to Rural Land. Rural Land is the Comprehensive Plan designation for all Rural Residential zones in the County.

- B. The amendment is consistent with other Zoning Ordinance requirements including, but not limited to, wildlife habitat, bird habitat and riparian protection standards;*

Finding: The property is not in a wildlife habitat, bird habitat or riparian protection area, and there are no other known designated Goal 5 resources on or near the property. Willow Creek, an inventoried Goal 5 resource, lies approximately 260 feet to the east of the subject site, and is separated from the site by SE McTaggart Road. All applicable Zoning Ordinance requirements for rezoning property are addressed in this report.

- C. The amendment will cause no significant adverse impact to other properties in the vicinity due to factors such as water quality, drainage, air quality or noise;*

Finding: There are no streams or wetlands on the property, and domestic water in the area is provided by the Deschutes Valley Water District. The proposed ten acre lots will provide adequate space for septic systems on each parcel. Sewage disposal systems must meet DEQ water quality requirements to serve the proposed residential development. Subdivision regulations require that a drainage plan be submitted demonstrating that all runoff will be retained on site before a plat creating new lots is signed by the County and recorded. Residential use does not normally have a significant adverse impact on air quality or create significant noise.

- D. The amendment will not force a significant change in or significantly increase the cost of farming or forest practices on surrounding resource land;*

Finding: To the south and southwest of the site, adjacent properties are developed with rural residential uses, and Tax Lots 500 and 600 are approximately 37 acres in size, zoned RR-5, and are not actively farmed. South of that is Madras Ranchos, part of approximately 400 acres of rural residential development south of Madras. Further south is Canyonview Estates, Silverado Estates, and others, all subdivisions that have been developed with approximately 250 residential lots at a density of 1.5 to 2 acres. To the northwest, Tax Lot 700 has been tentatively approved for subdivision for “The Ridge”, a 163-lot subdivision within the City of Madras.

Active farming does occur east of the site, across McTaggart Road, on Tax Lot 100. In this location, approximately 70 acres of high value farmland along Willow Creek are utilized for a variety of crops, including alfalfa. North of the farmland and northeast of the site, 77 acres are owned by the City and used for the South Wastewater Treatment Plant. The surrounding area is generally developed with urbanized uses, with the exception of Tax Lot 100. The addition of 9 residential lots will not materially increase the cost of farm practices on the surrounding land. Further, the entire area, including Tax Lot 100, is designated as part of the City of Madras’s future URA, slated for future urbanized growth.

- E. Adequate public safety, fire protection, sanitation, water and utility facilities and services are available or will be provided to serve uses allowed in the proposed zone;*

Finding: The area is served by the County Sheriff and Jefferson County Fire District #1. Water and electricity are available to serve the additional proposed lots, and other public services, such as drainage and transportation are adequate, or can feasibly be improved to manage the intensity of the proposed use. On-site septic systems will be assessed at the time of subdivision.

F. The uses allowed in the proposed zone will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:

- 1. Changing the functional classification of an existing or planned transportation facility;*
- 2. Allowing 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*
- 3. Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C). A Traffic Impact Study in accordance with Section 421 may be required to show compliance with this standard.*

Finding: The property is accessed by SE McTaggart Road, which is classified as a minor collector, with 60 feet of right of way. A minor collector is defined as typically having an average daily traffic volume of 500 to 2,500 vehicles. Each new dwelling unit generates 9.5 average daily trips according to the *ITE Trip Generation Manual*. An additional 9 lots from this development would increase traffic on the local road by approximately 86 trips per day. According to the County Public Works Director, the addition of 86 trips per day will not significantly impact the functional classification of SE McTaggart Road. Jefferson County's Transportation System Plan requires a Traffic Impact Study when traffic from proposed new development could impact the existing transportation system; however, the additional volume added to the roadway will not negatively affect the level of service standard of SE McTaggart Road. Therefore, the proposal is consistent with Criteria F.

Table 4-3 of the Jefferson County Transportation Plan, projects 74 and 75, identify potential projects that transverse through the property from west-to-east. The projects illustrate a connection between Fairgrounds Road and SE McTaggart Road, with a roundabout at this intersection, and an extension of Fairgrounds Road to the east, to Grizzly Road with an additional roundabout. This roadway would be constructed to City of Madras standards, as provided in the Jefferson County Road Code, Section 12.18.080.

At the time of subdivision of the subject site, the right of way required from the applicant would be 72 feet for the road and the right of way for the roundabout would be proportionally administered. In addition, to accommodate the future potential of McTaggart Road, which currently has a right of way of 60 feet, an additional 12 feet of right of way will be necessary to meet City of Madras standards for collectors. At the time of subdivision for the subject site, the applicant will be required to provide 6 feet along SE McTaggart Road for the entire length of their property frontage.

G. If the proposed amendment is for a smaller minimum lot size in an existing Rural Residential zone, the application shall meet the requirements for an exception to statewide planning Goal 14; and

Finding: The property is not in an existing Rural Residential zone, so this criterion is not applicable.

- H. *If the proposed amendment involves taking an exception to statewide planning Goals 3 or 4 to rezone the property from Exclusive Farm Use A-1, Exclusive Farm Use A-2, Range Land or Forest Management to a Rural Residential zone, the minimum lot size shall be at least ten acres unless the application meets the requirements for an exception to statewide planning Goal 14 in accordance with OAR 660-004-0018.*

Finding: The proposal involves an exception to rezone the property from EFU RL to RR-10. The minimum lot size proposed is 10 acres; therefore, a Goal 14 exception is not required.

- I. *The following criteria shall be met if the proposed amendment involves rezoning the property to Exclusive Farm Use A-2:*
1. *The area to be rezoned is at least 500 acres and consists of lawfully created parcels;*
 2. *At least 50 percent of each parcel proposed to be rezoned is made up of agricultural capability class VI – VIII soil;*
 3. *The area lies east of the Crooked River, Lake Billy Chinook and the Warm Springs Indian Reservation;*
 4. *No water rights are available to the parcels proposed to be rezoned; and*
 5. *The area is within three miles of a school or school bus route.*

Finding: The proposal is to rezone the property to RR-10, not EFU A-2, so the requirements of Criteria I are not applicable to the application.

C. The application must comply with the Statewide Planning Goals. The Goals are found in OAR 660-015.

Finding: Statewide planning Goal 1 requires that the county provide the opportunity for citizens to be involved in the planning process. Notice of the public hearing to consider the proposal was mailed to all property owners within 750 feet of the subject property and interested parties. Providing the opportunity for public input complies with Goal 1.

The revised Comprehensive Plan and Zoning Ordinance set out procedures and regulations for land use decision-making, in compliance with Goal 2.

Goal 3 requires the preservation and maintenance of agricultural lands. Agricultural lands are defined as being predominantly composed of agricultural capability Class I – VI soils in eastern Oregon. An exception to Goal 3 has been requested by the applicant as part of this application.

Goal 4 is to conserve forest land. The subject property is not forest land so is not subject to Goal 4. There are no designated Goal 5 resources on or near the property, so Goal 5 is not applicable.

Goal 6 requires that the air, water and land resources of the state be maintained or improved. The proposal is to develop a rural residential subdivision. This will have minimal impact on air quality. Sewage disposal will be by on-site septic systems, which must meet Department of Environmental Quality (DEQ) requirements. Public sewer cannot be extended to serve land outside the urban growth boundary, and a community sewer system is not allowed. The

County Engineer has verified that on-site septic systems can feasibly be provided on individual lots, given the size of the lots and characteristics of the soils. Provision of adequate sanitation systems adequately protects water quality. There are no streams or other water resources in the vicinity that would be adversely affected by the proposed rezone.

The property is not subject to any significant natural hazards (Goal 7). There are no known geologic faults in the county, and the earthquake hazard is considered to be moderate. Strict compliance with building code regulations and Zoning Ordinance fire safety standards will provide adequate protection from natural hazards, in compliance with Goal 7.

The property is not needed to meet the recreational needs of the citizens of the county, so the proposal does not conflict with Goal 8. Goal 9 requires jurisdictions to provide adequate opportunities for economic development. No industrial or commercial uses have been proposed, so Goal 9 is not applicable.

Goal 10 requires that sufficient buildable lands be provided in urban and urbanizable areas to provide for the housing needs of the citizens of the state. The property is in a rural area, so Goal 10 requirements to meet housing needs are not applicable. Goal 11 requires that cities or counties develop a public facility plan for areas within a UGB containing a population greater than 2,500. The property is not in a UGB.

Goal 12 requires jurisdictions to provide a safe, convenient and economic transportation system. The proposed rezone is consistent with the requirements of Goal 12, as the addition of approximately 86 vehicle trips will not change the functional classification of SE McTaggart Road. Further, at the time of future subdivision, right of way and other necessary improvements may be required for a connection of Fairgrounds Road and a roundabout through the site, consistent with the transportation networks shown in the adopted County TSP.

The proposal conserves energy because the property is adjacent to the City of Madras' city limits, so energy expended for transportation will be minimized, in accordance with Goal 13.

Goal 14 requires local governments to provide for an orderly and efficient transition from rural to urban land uses, and to accommodate urban population and employment inside urban growth boundaries while ensuring the efficient use of land. The subject property is adjacent to the Madras City Limits, and with larger lot sizes, will provide an orderly transition between the higher density urban development in the City, and the farmland to the east.

- D. The property is currently protected as agricultural land under statewide planning Goal 3. An exception to the goal is required in order to rezone the property for residential use. There are three types of exceptions. The first is for lands that are already "physically developed" to the extent that they are no longer available for uses allowed by the applicable goal, in this case agricultural use. The second type of exception is for lands that are "irrevocably committed" to uses not allowed by the goal because existing adjacent uses and other factors make uses allowed by the goal impracticable. The third type of exception requires "reasons" to justify why the state policy embodied in the applicable goals should not apply. The applicant has applied for an "irrevocably committed" exception, in accordance with ORS**

197.732(b), OAR 660-004-0018, and OAR 660-004-0028, which is discussed specifically in the following section.

OAR 660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For “physically developed” and “irrevocably committed” exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

Finding: The application proposes to change the existing Comprehensive Plan designation and zone to Rural Land and RR-10, to establish a 10-acre minimum lot size for the exception area. The designation will ensure that a rural character, rather than urban, will be maintained within the development area, and limit the uses allowable to one single family dwelling per 10-acre lot. Furthermore, if the area is included in the City of Madras UGB at a future date, the low-density development pattern will not impede future residential development at higher densities. The site can be served with public facilities as noted in previous findings in this staff recommendation. The site is separated from high value farmland and land currently used for farming by SE McTaggart Road, which forms a boundary and separation of agricultural land from land presently committed to rural residential and future urban uses as the City of Madras expands. In this respect, the proposal will not adversely affect adjacent or nearby resource land to nonresource uses.

The proposal satisfies the requirements of OAR 660-004-0018, as the applicant has proposed a minimum size of 10 acres per lot. Public facilities, such as streets, fire protection, and public safety, are available to serve the site. The individual lots are large enough in size to adequately accommodate septic systems, although they will need site evaluations prior to building permits. The change in designation and zone will not commit nearby resource land to nonresource land, as the subject site and adjacent farmland is separated by a 60-foot minor collector roadway. On the north and west, the site is directly adjacent to the Madras City Limits, and land that has been approved for subdivisions at urban densities. The proposal may act as a transition area between the higher density development and nearby agricultural uses.

OAR 660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal" as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

(d) The other relevant factors set forth in OAR 660-004-0028(6).

Finding: The "exception area" for purposes of this application is the 92 acres identified as Tax Lot 11-13-13-101, and is currently designated Rangeland and is zoned RL. The specific requirements of subsection (2) are addressed below.

- (a) The characteristics of the land that render it unsuitable for agricultural use under Goal 3 include the size of the site, the poor soils, limiting topography, and lack of irrigation. The site is smaller than the 160-acre minimum lot size required in the RL zone and is comprised primarily of Class VII soils. The topography of the site, which is primarily rolling with moderate to hilly slopes, combined with the non-productive agricultural soils on 85 percent of the site, is not conducive to economically sustainable agricultural use. The site does have irrigation rights for 13.9 acres for a

golf driving range, which is not a sustainable economic use for the owners, and further, is not a permitted use under the JCZO in the RL zone.

- (b) Expanding the site to create a larger area for agricultural or rangeland uses is not feasible. The site is bordered to the south, southwest, and northwest, by either RR-5 or City of Madras R-1 zoning. To the east, active farming occurs on approximately 70 acres of land zoned EFU A-1, however this land is separated from the site by SE McTaggart Road and is characterized by a terrain characteristic of land within a floodplain.
- (c) The site's relationship to the adjacent lands renders it difficult for agricultural or other uses allowed under the RL zone. Surrounding the site to the west and south are potentially over 250 residential lots built at 1 to 5 acre lot minimum densities, and is directly adjacent to the City Limits, limiting the potential for economically feasible farming and agricultural use. The site is within the City of Madras' Urban Reserve Area (URA), which as of this writing, has been adopted by the City and County, but not acknowledged by LCDC. By including the area within the URA, the long-term plans for the site are to transition it to urban use.
- d) OAR 660-004-0028(6) provides: Findings of fact for a committed exception shall address the following factors: (a) Existing adjacent uses; (b) Existing public facilities and services (water and sewer lines, etc.); and (c) Parcel size and ownership patterns of the exception area and adjacent lands. Criteria (a) and (c) have been addressed previously. The proposal complies with Criteria b, as public facilities such as water, on-site septic systems, and transportation networks can feasibly serve the development area. Water can be provided by Deschutes Valley Water District, the 10-acre lots can be developed to feasibly accommodate on-site septic systems. At the time of subdivision of the property, the owner will be required to provide adequate right of way for the extension of Fairgrounds Road and roundabout, and additionally, an additional 6 feet of right of way along McTaggart Road, in order to provide adequate right of way and to serve the development area.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part (II)(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible". For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

Finding: Allowable farm uses are impracticable on the site for the following factors:

- The site is not large enough to form a sustainable economic unit, given the poor quality of the soils (Land Capability Class VII for 70% of the site), lack of irrigation and poor water holding ability, and hilly terrain. In addition, the site cannot be combined with adjacent properties, because of the existing rural residential density of development, and the barrier formed by McTaggart Road to farmland to the east. Further, this farmland is within a different soil class and within floodplain, very different from the soils and terrain on the site.
- Roughly 15% of the site has an irrigation water right, and because of topography and soils, it is not feasible to expect that an economically viable agricultural business could be developed on the property. These site conditions meet the definition of impracticable, as intended in the definition. Further, forest products cannot be feasibly pursued on the site, as the lack of rainfall and incompatible soils do not support forest products at this site.

The proposal, therefore, meets Criteria 3.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exceptions shall address the following factors:

(a) Existing adjacent uses;

(b) Existing public facilities and services (water and sewer lines, etc.);

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g. physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

(d) Neighborhood and regional characteristics;

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Finding: The applicant included several vicinity maps with their application, illustrating the surrounding area and potential urban development and small parcels. According to the applicant, the site is not economically viable for agricultural uses, as the adjacent properties are already developed to the north and south at rural residential densities, in relatively small parcels to the southwest, and is within the City Limits to the north and west. Additionally, McTaggart Road forms a boundary between hilly, non-agricultural lands on the west and the flatter flood plain and high value farm land to the east along Willow Creek.

The site can be served with water from Deschutes Valley Water District, will have on-site septic systems, and with improvements to the transportation system required at the subdivision phase, will have adequate public facilities available.

The characteristics of the neighborhood and region surrounding the site are indicative that the area is evolving into a region that will support urban levels of development. The Madras URA includes this site as well as the farmland across SE McTaggart Road to the east. The applicant's proposal for 10-acre lots is consistent with the plans for accommodating future growth, as the nine lots can feasibly be divided to support increased density in the future, if the area becomes part of the Madras UGB. SE McTaggart Road provides a physical barrier between the site and the farmland to the east, in compliance with Criteria e above.

There is no permanent development on the site itself. Review of the site characteristics demonstrates that conditions on adjacent properties, and the characteristics of the site itself irrevocably commit the site to non-resource uses.

E. OAR 660-004-0040(7)(i) states:

For rural residential areas designated after the effective date of this rule, the affected county shall either:

- (A) Require that any new lot or parcel have an area of at least ten acres, or*
- (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."*

Finding: The proposal is to rezone the property to RR-10, with a ten acre minimum lot size. Therefore, an exception to Goal 14 is not necessary as part of this application.

F. Public/ Agency Comments Received:

The County received two written comments from agencies concerning the application, from the City of Madras and the Oregon Department of Land Conservation and Development.

The City of Madras Community Development Director provided comments concerning the impact of the proposal on the City's transportation system, specifically McTaggart Road and "J" Streets. The City requests that the applicant comply with OAR 660-012-060, prior to approval. As demonstrated in findings in this staff recommendation, the proposal of 86 trips on the roadways would not constitute a significant impact as defined in the OAR, as determined by the County Public Works Director. Other concerns of the City include: 1) that the applicant improve McTaggart Road to City of Madras collector standards prior to any development; 2) that Terrace Drive (Fairgrounds Road) is extended east across the site to McTaggart Road and constructed to City of Madras Major Collector standards prior to any development; 3) that adequate right of way is dedicated for TSP projects 74 and 75; and (4) that the applicant comply with all provisions of the Urban Reserve Management Agreement.

As noted in findings in this recommendation, the applicant will be required to improve the transportation system and dedicate adequate right of way, at the time of subdivision of the property, based on a proportional share of the impact from an additional 9 lots to the transportation system. These requirements have been developed and recommended by the County Public Works Director with the City's requests, and the requirements of the Urban Reserve Management Agreement in mind.

The Department of Land Conservation and Development submitted comments on the application as well, noting the following: 1) That soil capability, while important, can not be used as a primary factor in determining lands that are "irrevocably committed" to other uses; 2) that the presence of nearby exception areas or UGBs, or development in those areas, cannot be relied on to convert additional areas to a rural residential designation; 3) that inclusion in an urban reserve area does not excuse a property from protection under statewide planning Goal 3; and 4) that Goal 3 allows golf courses as a conditional use on non high-value farmland, but does not allow driving ranges.

The applicant's submittal outlines the soil types, and provides evidence that the soils on the site are not conducive to productive, economically-feasible agricultural use. While the applicant does not rely entirely on the soils to justify an exception, it is important to note that the existing site's soils, topography, and the fact that it is bordered by RR-2 and RR-5 lands on two sides, with a potential for over 250 lots, combines to render the site somewhat unusable for agriculture. Additionally, the site is part of a larger 1,080 acre area that is part of Madras's recommended Urban Reserve Area and is slated for a major collector east-west transportation network with a roundabout in the County's TSP. These factors combine to support an exception to Goal 3 to change the zoning for the property to RR-10. By doing so, a lower-density rural residential development area would be provided for a maximum of 9 lots, providing a transition between the adjacent Madras City Limits and agricultural use to the east.

CONCLUSION: Based on the foregoing findings, the application complies with the requirements for a Comprehensive Plan and Zoning Map Amendment, an exception to Statewide Planning Goal 3, Part 5 of the 2007 Jefferson County Comprehensive Plan, Chapter 8 of the 2007 Jefferson County Zoning Ordinance, and OAR 660-004-0018 and 660-004-0028.

RECOMMENDATION: Staff recommends that Casefile 08-PA-04, an application for a Plan Amendment, Zone Change and Exception to Statewide Planning Goal 3 to redesignate and rezone tax lot 11-13-13-101 from Range Land to Rural Land and from EFU RL to RR-10 be approved.

PROPOSED FINDINGS:**Application for Comprehensive Plan Map and Zoning Map Amendment**

The Jefferson County Board of Commissioners has carefully considered the application of Wayne Lee, Phyllis Lee, Norman Lee, JoAnn Lee Adair, and Mike Adair to change the Comprehensive Plan Map from Exclusive Farm Use/Range Land to Rural Residential, and the Zoning Map from Range Land (“RL”) to Rural Residential – 10 Acres Minimum Lot (“RR-10”), with an Exception to Statewide Planning Goal 3. Based upon the documents submitted by the applicants, testimony submitted at public hearings before the County Planning Commission and this Board, and the recommendation of the County Planning Commission, the Jefferson County Board hereby adopts the following Findings of fact and conclusions of law in support of its decision to approve this application.

1. The property is located west of SE McTaggart Road, south of Bluff Road and is identified on County Assessor records as Tax Lot 101, Section 13 T11S R13E W.M. (Map 11 13 13). The property was created in 1990, recorded as Partition Plat #1991-04.
2. The application was filed as the County’s Comprehensive Plan is under appeal and has not been acknowledged by the Department of Land Conservation and Development (“DLCD”). Therefore, the application for change to the Comprehensive Plan Map must be consistent with Statewide Planning Goals, Oregon Revised Statutes (“ORS”) 197.732, and related provisions of the Oregon Administrative Rules (“OAR”), specifically OAR 660-004-0018 and 660-004-0028. The request for change in zoning must be consistent with the County’s Comprehensive Plan or Statewide Planning Goals, as well as relevant provisions of the Jefferson County Zoning Ordinance (“JCZO”) Chapter 8, Section 803.2. This “Findings” document identifies the relevant requirement and the evidence that the Board believes supports a determination of compliance.
3. The application was considered at a public hearing held by the Jefferson County Planning Commission on April 9, 2009. The Planning Commission heard from the applicant and two neighbors, and reviewed written comments from DLCD and the City of Madras. The Planning Commission voted unanimously to recommend approval to this Board, based upon the evidence submitted by the applicant and review by the staff. Specific issues and findings are discussed in this document.
4. The request for change of designation on the Comprehensive Plan Map must comply with Statewide Planning Goals, as noted, and this involves an exception to Goal 3 as a non-resource designation is proposed. The exception will be discussed in a following section of these Findings.

EXHIBIT B

The following Statewide Planning Goals apply to this application:

Goal 1 Citizen Involvement

Public notice was provided as required by state law and JCZO Section 906 prior to the hearing before the Planning Commission and in advance of the public hearing before the Board of Commissioners. At the public hearings before the Planning Commission and Board of County Commissioners, all parties were given an opportunity to participate in the proceedings either orally or in writing. This goal is satisfied.

Goal 2 Land Use Planning

This goal requires an adequate factual basis for land use decisions and also provides for exceptions. An exception to Goal 3 Agricultural Lands is part of this application and determination. This Findings document demonstrates that the decision of the Board is factually based and that the change in Comprehensive Plan and Zoning Map designations complies fully with all standards and criteria.

Goal 3 Agricultural Lands

This goal requires that productive farmland be maintained and protected. The application request an exception to this goal, because the land is “irrevocably committed” to non-resource uses, as will be shown in a following section of these Findings.

Goal 4 Forest Lands

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces

These goals are not relevant to this application, which has no capacity for forest production and no Goal 5 protected resources.

Goal 6 Air, Water and Land Resources Quality

The application demonstrates—and this Board concurs—that the site is suitable for rural residential development. On-site septic systems and on-site drainage management will minimize any potential impacts to water quality.

Goal 7 Areas Subject to Natural Disasters and Hazards

No natural hazard area has been identified on or near the site. Earthquake hazard is considered moderate, managed through requiring that new structures comply with the Building Code.

Goal 8 Recreational Needs

The site is presently occupied by a golf driving range—which would be removed when the site is developed with a rural residential subdivision—however the minimal level of development and patronage does not demonstrate a need to maintain this facility for the benefit of citizens of the County.

Goal 9 Economy of the State

Use of the site does not contribute to the industrial or commercial base for the County or the State. The proposed rural residential use for the site does not substantially affect the County's agricultural land supply, as will be discussed in relation to requirements for an exception to Goal 2.

Goal 10 Housing

At most, nine new residences and more likely, eight new residences, will be provided on the 92 acre property when subdivided into minimum-10 acre lots, with appropriate dedications, and so on. The minimum 10 acre lot area satisfies both the standard for rural rather than urban development in OAR 660-004-0040(7)(i) as well as the Madras Urban Reserve Area Report, adopted by the City of Madras and Jefferson County to manage lands likely to be developed with future urban uses.

Goal 11 Public Facilities and Services

Public facilities and services are available to the site, to the extent necessary for rural residential development. The Deschutes Valley Water District provides domestic water to the area; on-site septic systems can be utilized for sewage disposal. The minimal level of public facilities and services is sufficient for the few new homes that will be permitted on this 92 acre site.

Goal 12 Transportation

The application will not "significantly affect" a transportation facility to trigger requirements of Goal 12 as implemented through OAR 660-012-0060. At most, nine new residences would generate 86 daily vehicle trips, with this total offset by number of trips generated by the existing residence for the driving range manager and the driving range use.

We do note, however, that the site is identified on both City and County Transportation System Plans as the location of a future extension of Fairgrounds Road and various other transportation improvements. SE McTaggart Road has insufficient right of way for a roadway classified as a minor collector. This Board finds compliance with the road standards identified in the City and County TSP's to be feasible and the details—such as dedication of right of way and so forth—can be considered at the time an application for subdivision is submitted.

Goal 13 Energy Conservation

The JCZO requires that new rural residential development be located in proximity to existing urban areas, to minimize vehicle trips and to better utilize existing infrastructure. The site proposed for redesignation is immediately adjacent to the City of Madras' city limits and within the Urban Reserve Area established jointly by the City and Jefferson County. We believe that the location of this site complies with the goal of promoting energy conservation.

Goal 14 Urbanization

OAR 660-004-0040(7)(i) establishes a minimum lot area of 10 acres as rural rather than urban intensity development. As the application requests a zoning designation that requires a minimum of 10 acre lots, this goal is not relevant.

Goals 15 through 19

These Goals apply to specific areas of the State, not including lands within Jefferson County.

In summary, we have considered all of the Statewide Planning Goals, noting those that are relevant to the proposed change in Comprehensive Plan and Zoning Map designation. We believe that all of the Goals are satisfied, with the exception of Goal 3 Agricultural Lands. The application includes a request for "Exception" consistent with the requirements of OAR 660-004-0028 and this will be discussed fully in the next section of this Findings document.

5. Exception to Goal 3

The Oregon Revised Statutes provide several avenues for considering an "exception" to the Planning Goals. The application before us looks to the "irrevocably committed" standards found in OAR 660-004-0018 and 660-004-0028.

An exception requires consideration of the specific situation for a particular property, to determine if the exception is justified. The situation for this site is discussed at length in the application and in the staff's review, incorporated herein by reference, and includes the following key points:

- SE McTaggart Road forms a physical boundary between land that is actively farmed on the east along Willow Creek and land to the west that is not farmed and which has, to a great extent, been converted to non-resource uses.

Table A: Adjacent Zoning and Uses

| Location | Zoning | Use |
|-----------|--|--|
| North | Range Lane (RL) | Tax Lots 900, 901 & 903 (6.18, 1.91, & 1.16 Acres, respectively), occupied by one residence. PP&L Easement along the north property boundary. |
| East | Exclusive Farm Use (EFU A-1) | Tax Lot 100, approximately 70 Acres of high value farmland along Willow Creek utilized for a variety of crops including alfalfa. North of the farmland and northeast of the site, 77 Acres owned by the City and partially utilized for the South Wastewater Treatment Plant. |
| South | Rural Residential (RR-5 Acre) | Madras Ranchos, part of approximately 400 acres of rural residential development south of Madras—and south of the site—that include Canyonview Estates, Silverado Estates, and others. These subdivisions have been developed with about 250 residential lots at a density of 1.5 to 2 Acres. Madras Ranchos was developed in the 1980's; Canyonview and others have been development more recently. |
| Southwest | Rural Residential (RR-5 Acre) | Tax Lots 500 and 600, approximately 37 Acres each; no active farming occurs on these properties. |
| Northwest | City – Single Family Residential (R-1) | Tax Lot 700 (application submitted for “The Ridge”, 163-lot subdivision), City of Madras, and touching at the corner of a 12-Acre parcel at the southeast corner of the Strawberry Heights Subdivision |

• Soils on the site are not high quality for agricultural purposes, even with irrigation. Approximately 70% of the site has soils identified as Land Capability Class VII, or non-agricultural; 85% of the site soils are classified as Class VI or VII.¹ Only 13.9 acres, or 15% of the site, has an irrigation water right and is considered a Class III soil when irrigated. Furthermore, the combination of more productive Era Sandy Loam with the Lickskillet/Redcliff soils actually complicates rangeland management and potentially contributes to erosion and environmental degradation.

¹ This Board relies upon the letters from Chad McGrath, State Soil Scientist, Natural Resources Conservation Service (September 8, 2005) and Steve Wert, CPSS, Wert & Associates (August 30, 2005), concluding that an appropriate classification for the Lickskillet-Redcliff soils on the site is LCC VII.

Table B: Soil Types

| Number | Name and explanation from NRCS Study | Location on site |
|--------|---|--|
| 44B | Era Sandy Loam 3 to 8% Slope Water Holding Capacity: 7 inches Land Capability Class: Non-irrigated - 6 Irrigated - 3 | This soil type is located through the center of the site and includes 13.9 acres that are irrigated. |
| 79C | Lickskillet-Redcliff very gravelly loam 0-15% Slope Lickskillet Water Holding Capacity: 1 inch Land Capability Class – 7 Redcliff Water Holding Capacity: 2 inches Land Capability Class – 6 | This soil type is located primarily south of the driving range, with a smaller area on the very north part of the site and along the west site boundary. |
| 80D | Lickskillet-Redcliff very gravelly loam 15-30% Slope (same as 79C) Land Capability Class – 7 | This soil type is located in the northwest part of the site. |
| 80E | Lickskillet-Redcliff very gravelly loam 30-60% Slope (same as 79C) Land Capability Class – 7 | This soil type is located north of the driving range and along the McTaggart frontage, east of the major portion of 79C Lickskillet-Redcliff soil. |

- The site is smaller than the 160 Acre minimum lot area in the RL Zone, less than is necessary for a sustainable economic unit. Existing development and rural residential lots in separate ownerships that comprise adjacent properties means that there is no feasible opportunity to expand the site to form an economically viable farm use in the future.

- The land is not suitable for farm use because of the limited area with water right, along with the unlikely possibility for expanding that water right, poor soils on most of the property and hilly terrain, that make it impossible to cultivate any agricultural uses on the site.

- Testimony about the history of farm use of the site was provided by one of the present owners. He stated that the parcel had originally been part of a larger property that included the high value land along Willow Creek. Some hay was harvested from the site, along with similar activities on the larger parcel. With only a few acres having irrigation, the site was not sustainable on its own, and eventually was separated from the truly agricultural land. Based on this testimony, we conclude that the majority of the 92 acre site was not used as resource land and that the irrigated 15% of the site is impracticable for agricultural uses on its own.

The City of Madras submitted written comments prior to the Planning Commission hearing, listing the specific transportation system improvements that will eventually be necessary to support urban densities within the area now designated as “Urban Reserve.” As noted responding to Goal 12 Transportation, we believe that the scale of development for the site at rural residential densities does not have a significant impact on the transportation system and that street dedications and improvements can be part of future development plans.

DLCD’s area representative also submitted written comments prior to the Planning Commission’s public hearing, noting that (1) soil capacity cannot be used as the primary factor, (2) proximity to UGB cannot be relied upon, and (3) that inclusion in an Urban Reserve Area does not excuse a site from protection under the statewide planning goals. The Board has considered DLCD’s comments and concludes that the proposed change to a rural residential designation is justified by a number of factors, including the proximity of other rural residential development, the site’s separation from other agriculturally used parcels by SE McTaggart Road, evidence that the site never has been suitable for farm use considering the soils, limited irrigation, and topography, and the availability of utilities—all this in addition to the urban reserve designation. This Board concludes that all of these factors, taken together, justify the change in designation for this property to rural residential. We are persuaded that the situation for this site makes agricultural use of the site “impracticable” and that an Exception to Goal 3 is justified, based on the facts listed in this section.

6. Zoning Change

The requested zoning change to RR-10 follows from the determination that a non-resource Comprehensive Plan designation is appropriate for the property. The JCZO Section 803.2 lists criteria for consideration of an amendment to the zoning map:

- A. The zoning designation will conform to the Comprehensive Plan Map designation;*

The proposed zoning map designation will conform to the amended Comprehensive Plan Map designation, which we have determined is appropriate based upon the discussion in this Findings document.

- B. The amendment is consistent with other Zoning Ordinance requirements including, but not limited to, wildlife habitat, bird habitat and riparian protection standards;*

There are no protected resources on or near the site, with the exception of Willow Creek, an inventoried Goal 5 resource approximately 260 feet east of the site and separated by McTaggart Road. No other JCZO provisions apply to the site at this point.

- C. The amendment will cause no significant adverse impact to other properties in the vicinity due to factors such as water quality, drainage, air quality or noise;*

The location of this property with respect to adjacent properties and the large lot areas required for the RR-10 Zone reduce the potential that future uses will have any impact on neighboring properties. Also to the point, two neighbors testified before the Planning Commission that their concern was for urban densities or lots of less than two acres in area, which would be dissimilar from their own. One of the Planning Commission members noted that inclusion within the URA meant that future urban development was probable, though not likely to be immediate.

We are convinced that new lots with a minimum area of 10 acres, as proposed, will protect both the interests of present neighbors and of the City and County in maintaining the potential for future urban development.

D. The amendment will not force a significant change in or significantly increase the cost of farming or forest practices on surrounding resource land;

The site is separated from agricultural uses by SE McTaggart Road and all properties located west of SE McTaggart Road in the vicinity—with the exception of this site—are designated and occupied for rural residential uses. This coexistence of rural residential and agricultural uses, separated by SE McTaggart Road, has existed for many years and convinces us that allowing rural residential use of this site will have no impact on farm uses to the east of SE McTaggart Road.

E. Adequate public safety, fire protection, sanitation, water and utility facilities and services are available or will be provided to serve uses allowed in the proposed zone;

Public service providers have identified no problems in serving future rural residential uses on the site. Domestic water is available from the Deschutes Valley Water District; on-site sewage disposal is feasible according to the County's engineer. Even though very little is required for eight or nine new residences, we find that the level of public facilities and services that is available will be sufficient.

F. The uses allowed in the proposed zone will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:

- 1. Changing the functional classification of an existing or planned transportation facility;*
- 2. Allowing 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*
- 3. Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C). A Traffic Impact Study in accordance with Section 421 may be required to show compliance with this standard.*

We find that an additional eight or nine residences—generating 86 daily vehicle trips at most—will not have a significant impact on SE McTaggart Road or any other transportation facility in the vicinity.

We also note that the site is in the vicinity of projected extension of Fairgrounds Road and other system improvements identified in the letter from the City of Madras. While we agree that the identified improvements and right of way will be necessary to support urban levels of development in the area, the measures requested by the City are far in excess of potential impacts from the development of this property at RR-10 density. We note that at the time of review of an application for subdivision, it is likely that additional right of way will be required along SE McTaggart Road to be consistent with the County's TSP standard for a minor arterial. However, evaluation of impacts and mitigating measures must await the review of a proposal and we will not speculate further on potential requirements.

- G. *If the proposed amendment is for a smaller minimum lot size in an existing Rural Residential zone, the application shall meet the requirements for an exception to statewide planning Goal 14; and*
- H. *If the proposed amendment involves taking an exception to statewide planning Goals 3 or 4 to rezone the property from Exclusive Farm Use A-1, Exclusive Farm Use A-2, Range Land or Forest Management to a Rural Residential zone, the minimum lot size shall be at least ten acres unless the application meets the requirements for an exception to statewide planning Goal 14 in accordance with OAR 660-004-0018.*

The property is not presently in a Rural Residential Zone and the proposed RR-10 Zone, with 10-acre lot minimum area standard, satisfies both OAR 660-004-0040(7)(i) and the City-County URA agreement.

- I. *The following criteria shall be met if the proposed amendment involves rezoning the property to Exclusive Farm Use A-2....*

This criterion does not apply to the proposed zoning map amendment.

Based on the facts identified in the applicant's submission, staff's review, and testimony, we conclude that the criteria of JCZO Section 803.2 are satisfied and that the requested zoning map amendment complies with all requirements.

7. Conclusion

Based on the above findings of fact and conclusions of law, the Jefferson County Board of Commissioners determines that the Adair-Lee application to amend the County Comprehensive Plan Map and Zoning Map to allow rural residential development of the property complies with all legal standards, and therefore approves the application.

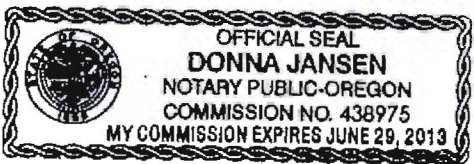
AFFIDAVIT OF MAILING

I, Tanya Cloutier being first duly sworn, hereby certify that I mailed an exact copy of the Notice of Decision attached as Exhibit "A" at the Madras Post Office in Madras, OR on 7/14/09 enclosed in a sealed envelope, postage prepaid, addressed to the parties listed on the attached as Exhibit "B".

Tanya M. Cloutier
Tanya M. Cloutier
Senior Planning Technician
Jefferson County

STATE OF OREGON }
 } ss
COUNTY OF JEFFERSON }

Signed and sworn to (or affirmed) before me on July 14, 2009 (date) by TANYA M. CLOUTIER (name(s) of person(s) making statement)



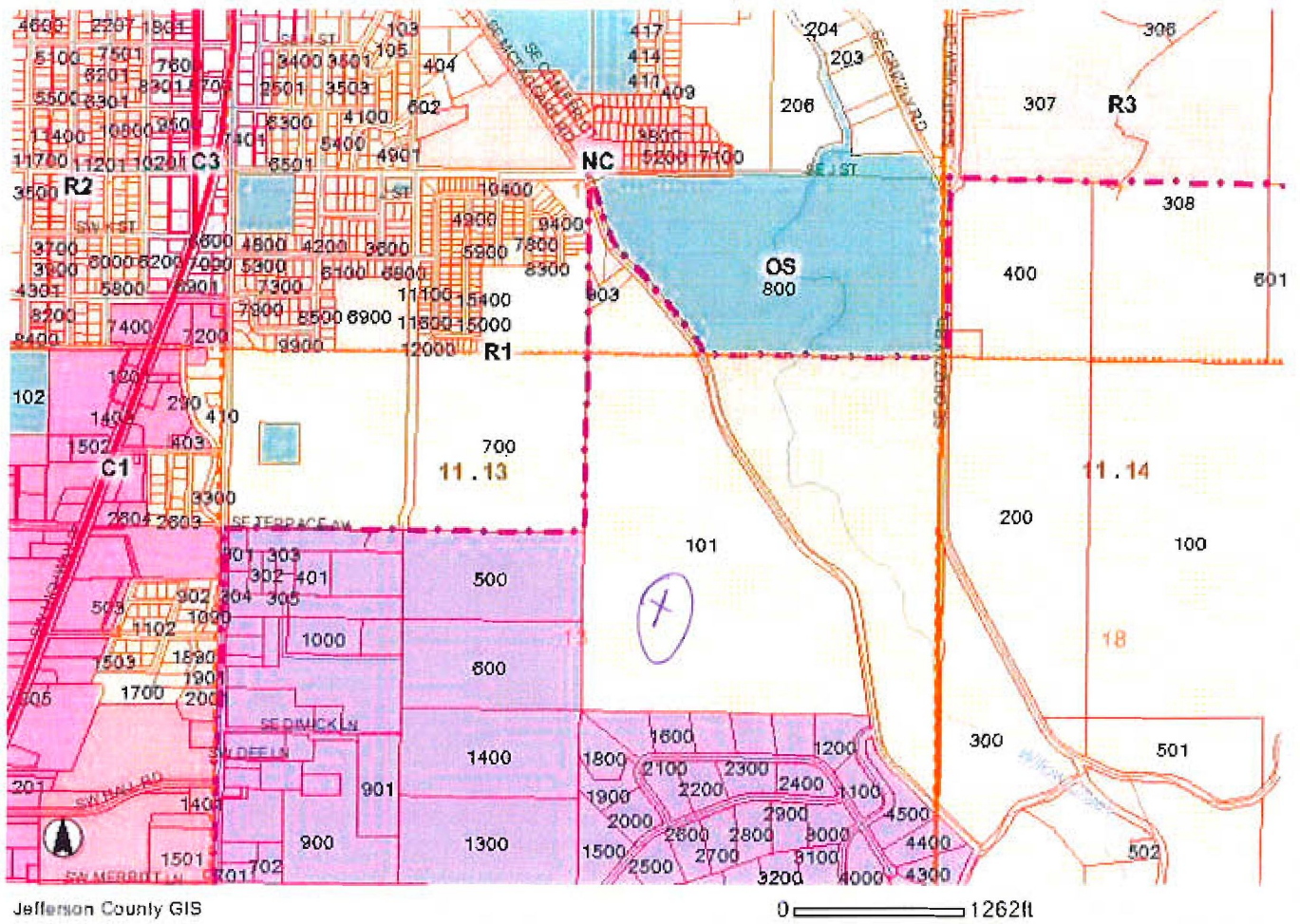
Donna Jansen
Notary Signature

My commission expires: June 29, 2013

NOTICE SENT IT NAMES HIGHLIGHTED
IN YELLOW.

| OWNER | M_ADDRESS | M_CITY | M_ST ATE | M_ZIP | AGENT |
|---------------------------------------|-----------------------|-----------------|-------------|-------|-------------------------------------|
| ANDERSON, DELBERT & BETTY TR | 951 SE RANCHO LN | MADRAS | OR | 97741 | |
| BAKER, STEVEN L & JENNIFER L | PO BOX 1053 | MADRAS | OR | 97741 | |
| BEEBEE, FREDERICK E & KATHRYN A | PO BOX 366 | MADRAS | OR | 97741 | |
| BELL, E FRANCES | 10704 FARGO ST | PORTLAND | OR | 97220 | |
| BRUNOE, BRUCE R & FRANCES | PO BOX 750 | WARM SPRINGS | OR | 97761 | |
| BUSH, MICHAEL J & CYNTHIA LOU | 371 SE DIMICK LANE | MADRAS | OR | 97741 | |
| CENTRAL ELECTRIC COOP INC | PO BOX 846 | REDMOND | OR | 97756 | |
| CORDES, DELITA | PO BOX 945 | MADRAS | OR | 97741 | |
| ESPOSITO ANGELA | 15127 24TH ST ##106 | REDMOND | WA | 98052 | |
| FRESHOUR SHARON K & LEMUS KELLY M. | 1614 MCTAGGERT RD | MADRAS | OR | 97741 | |
| FUENTES, TERESA | 740 SE DUSSAULT ROAD | MADRAS | OR | 97741 | FUENTES, WILLIAM CO- CONSERVATOR |
| GRIFFITH, EVERETT G & PHYLLIS L | PO BOX 414 | MADRAS | OR | 97741 | |
| HOFFMAN, WILLIAM B, SR. | 2384 NW FIR LN | MADRAS | OR | 97741 | |
| HOLZFUSS, WAYNE W & GLENDA L | 851 SE RANCHO LANE | MADRAS | OR | 97741 | |
| HUFFMAN FINANCIAL, INC ET AL | PO BOX 458 | REDMOND | OR | 97756 | |
| KRAUSE, RICHARD T & PENNI L | 600 SE DUSSAULT | MADRAS | OR | 97741 | |
| KRENOWICZ, MICHAEL J & LAURA A | 1634 SE PALISADES DR | MADRAS | OR | 97741 | |
| LAMBROS, TIM & KATHY | 9152 ALABASTER PL | TUCSON | AZ | 85742 | |
| LARNER, ALBERT E & MARY | 8210 SW ERNST RD | PORTLAND | OR | 97225 | |
| LARNER, ALBERT E & MARY | 8210 SW ERNST RD | PORTLAND | OR | 97225 | |
| LEE, WAYNE A ETAL | 16796 WESTSIDE RD | LAKEVIEW | OR | 97630 | |
| LINDGREN, CARL D & TERESA L | 795 SE DUSSAULT RD | MADRAS | OR | 97741 | |
| LUTHER, TERRY A & CATHERINE A | 1576 SE LAVA LN | MADRAS | OR | 97741 | |
| MADRAS AREA ENHANCMENT, LLC | PO BOX 1564 | SISTERS | OR | 97759 | |
| MAMMEN, ALPHA | 941 SE RANCHO LANE | MADRAS | OR | 97741 | |
| MARTIN, MARYANN T | 250 SE STEELE ST | MADRAS | OR | 97741 | |
| MARTIN, ROGER I & GLORIA A | 285 SE DIMICK LN | MADRAS | OR | 97741 | |
| MONDA, FLOYD H & JANIS O | 947 SE RANCHO LN | MADRAS | OR | 97741 | |
| NELSON, DAVID J & SHERRYLL D | 505 SE RANCHO LANE | MADRAS | OR | 97741 | |
| NORTON, MARY M TRUSTEE | 786 SE DUSSAULT RD | MADRAS | OR | 97741 | NORTON, MARY TRUST |
| PATTERSON, CHARLES W & KIMBERLY K | 927 SE RANCHO LN | MADRAS | OR | 97741 | |
| RANKIN, STEVEN C & | PO BOX 757 | MADRAS | OR | 97741 | HORNUNG, LISBET & |
| SCHEIDEMAN, JOHN M & ANNE H | 640 SE RANCHO LANE | MADRAS | OR | 97741 | |
| STRAIN DOUG E | 8801 93RD | TERREBONNE | OR | 97760 | |
| UTTER, RICHARD R & SHIRLEY | 596 SE RANCHO LN | MADRAS | OR | 97741 | |
| WEBER, MICHAEL S & JUDITH H | 690 SE RANCHO LN | MADRAS | OR | 97741 | |
| WERGIN, ANTONE L & BARBARA J | 695 SE DUSSAULT | MADRAS | OR | 97741 | |
| WOLL, PATRICIA J | 804 SE RANCHO LN | MADRAS | OR | 97741 | |
| WOODS, TIMOTHY N. & DENISE M. | 665 RANCHO LN | MADRAS | OR | 97741 | |
| WOODWORTH, GAIL & KAREN | 1057 SE MCTAGGART | MADRAS | OR | 97741 | |
| JEFFERSON COUNTY ASSESSOR | | | | | |
| JEFFERSON COUNTY BUILDING | | | | | |
| JEFFERSON CO PUBLIC WORKS | | | | | |
| JEFFERSON CO SANITARIAN | | | | | |
| JEFFERSON CO. SURVEYOR | | | | | |
| DLCD | 888 NW HILL ST, STE 3 | BEND | OR | 97701 | ATTN: JON JININGS |
| DESCHUTES VALLEY WATER DIST | 881 SW CULVER HWY | MADRAS | OR | 97741 | |

| | | | | | |
|--------------------------------|------------------------|-------------|----|-------|---------------------|
| JEFFERSON CO FARM BUREAU | 798 SE DOVER LANE | MADRAS | OR | 97741 | ATTN: MICKEY |
| DAVE STEVENSON | 2391 NW ELM LANE | MADRAS | OR | 97741 | |
| GARY HARRIS | 7000 NW DANUBE DR | MADRAS | OR | 97741 | |
| JEFFERSON CO FIRE DISTRICT #1 | | | | | |
| NORTH UNIT IRRIGATION DISTRICT | 2023 BEECH ST | MADRAS | OR | 97741 | |
| 1000 FRIENDS OF OREGON | 1175 HARMON ST | BEND | OR | 97701 | ATTN: CAROL MACBETH |
| ODOT | 63085 N HWY 97, STE 10 | BEND | OR | 97701 | ATTN: JIM BRYANT |
| ODOT | 63034 OB RILEY RD | BEND | OR | 97701 | ATTN: ED MOORE |
| MADRAS, CITY OF | 71 SE D ST | MADRAS | OR | 97741 | |
| MIKE ADAIR | 14655 SW 139TH AVE | TIGARD | OR | 97224 | |
| LESLIE A HAUER | 6100 COLLINS ROAD | WEST RICHLA | WA | 99353 | |



(X) subject site

JEFFERSON COUNTY
COMMUNITY DEVELOPMENT DEPT.
85 S.E. 17TH STREET
MADRAS, OREGON 97741



POSTNET

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\$01.90⁰⁰
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Mailed from 97741
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Attention: Glenn Austin direct Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540