



Oregon

Theodore R. Kubongski, 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

9/14/2009

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 007-09

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: Thursday, September 24, 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

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DLCD

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**

	<input type="checkbox"/> In person	<input type="checkbox"/> electronic	<input type="checkbox"/> mailed
DATE STAMP	DEPT OF		
	SEP 04 2009		
	LAND CONSERVATION AND DEVELOPMENT		
	For DLCD Use Only		

Jurisdiction: **Jefferson County**

Local file number: **08-PA-05**

Date of Adoption: September 2, 2009

Date Mailed: **9/3/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 4/9/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Reasons exception to Goal 14.**

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

The Board of Commissioners approved a zone change and exception to Goal 14 to allow a zone change from the existing RR-10 zoning (Rural Residential 10-acre minimum), to RR-2 (Rural Residential 2-acre minimum), for a 39-acre parcel located adjacent to the west side of the City of Madras UGB, off of Belmont Lane. The property is specifically described as Map Number 11-13-11-500. The Comprehensive Plan designation will remain as Rural Land.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from:

to:

Zone Map Changed from: **RR-10**

to: **RR-2**

Location: **Off Belmont Lane, adjacent to the City of Madras.**

Acres Involved: **39**

Specify Density: Previous: **10-acre minimum lot size**

New: **2-acre minimum lot size**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...Yes.

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. _____

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

City of Madras, Jefferson County Fire District #1.

Local Contact: **Susanna Julber** Phone: (541) 475-4462 Extension:
Address: **85 SE D Street** Fax Number: **541-325-5004**
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, or by emailing **larry.french@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 **larry.french@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 AMEND-)
MENT TO THE ZONING MAP AND)
AN EXCEPTION TO STATEWIDE)
PLANNING GOAL 14)**

Ordinance No. 0-099-09

WHEREAS, Joel Fuller owns a 39-acre parcel identified as Tax Lot 11-13-11-500 located off of Belmont Lane adjacent to the west edge of the Madras City Limits and north of the Sunnyside Estates subdivision, also located within the Madras City Limits. The property is zoned Rural Residential RR-10 on the Jefferson County Zoning Map, with a ten-acre minimum lot size requirement. The owner submitted an application for a Zoning Map amendment and an exception to statewide planning Goal 14 in order to rezone the property to Rural Residential RR-2 to establish a two-acre minimum lot size; and

WHEREAS, the Jefferson County Planning Commission held a public hearing on June 25, 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 5 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 August 12, 2009, and accepted testimony on the application. No persons appeared at that time 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 Zoning Map Amendment**

Jefferson County hereby **AMENDS** the Zoning Map to change the zoning of tax lot 11-13-11-500 from Rural Residential RR-10 to Rural Residential RR-2.

2. **Adoption of Exception**

Jefferson County hereby takes an exception to Statewide Planning Goal 14 for tax lot 11-13-11-500, and incorporates the justification for the exception into Appendix II of the Comprehensive Plan.

3. **Adoption of Findings**

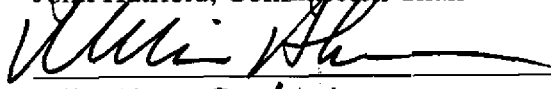
The Board of Commissioners hereby find that the amendments and exception are in conformance with applicable statewide planning goals, administrative rules, Comprehensive Plan and Zoning Ordinance, as set forth in the findings of fact and conclusions set forth in the Supplemental Findings attached hereto as Exhibit A and by this reference incorporated herein and in the Staff Report attached hereto as Exhibit B and by this reference incorporated herein. To the extent the findings set forth in Exhibits A are inconsistent with the findings in Exhibit B or are in addition to the findings of Exhibit B, the findings of Exhibit A shall control.

Dated this 2ND day of September, 2009.

BOARD OF COMMISSIONERS:



John Hatfield, Commission Chair

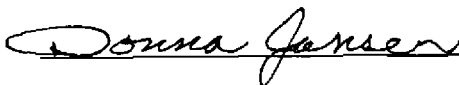


Mike Ahern, Commissioner



Wayne Fording, Commissioner

Attest:



Appeal Information

Planning Casefile #08-PA-05

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: September 2, 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.

Exhibit A
Supplemental Findings
Jefferson County Board of County Commissioners
Joel Fuller 08-PA-05

I. Record

The Board finds that the record includes the entire record that was before the Planning Commission, a packet of exhibits (A – E) that was introduced by the Applicant’s attorney before the Board at the August 12, 2009 hearing and minutes and the recordings of the board hearing, the board deliberations and the board adoption of this decision and the decision itself.

II. Findings of Fact and Conclusions

Basic Findings: The Board wishes to correct the findings found on Page 1 of the Staff Report to state that the property is located just north of Sunnyside Estates subdivision (not the Sunrise Estates subdivision as set forth on Page 1 of the Staff Report).

Findings in Response to OAR 660-014-0040(3)(a): The Board amends the findings on Page 14 of the Staff Report responsive to OAR 660-014-0040(3)(a) to strike the word “adjacent” from the third line in the third paragraph.

Additional Findings for Goal 9 Compliance: The Board amends the findings with regard to Goal 9 on Page 12 of the staff report to find that Goal 9 is applicable as it relates to the nature of rural residential lot size as providing a draw to upper-income people who can help support and drive economic development within the community.

Additional Findings in Support of Exception and in Response to OAR 660-014-0040 and the Department of Land Conservation and Development and the City of Madras: Because OAR 660-004-0040(7)(i) characterizes newly applied rural residential zoning allowing for parcel sizes of less than 10 acres as “urban” development, the applicable standard for a Goal 14 exception is found at OAR 660-014-0040.¹ See *Doherty v. Morrow County*, 44 Or LUBA 141 (2003), *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001).

With regard to OAR 660-014-0040(2), in response to DLCD’s (the Department) comments regarding adequacy of reasons for the reasons exception, the Board finds that the reasons criteria does not provide a measureable criterion of approval and that the criterion allows the Board a considerable amount of discretion in determining the adequacy of the reasons justifying the application. The Department states that Goal 9 “most often” focuses on building prosperity through job creation on lands within an urban growth boundary. That response does not indicate that an inside the UGB strategy is the only manner in which economic development can be

¹ The standards of OAR 660-014-0040(3)(a), (b) and (c) largely restate and duplicate the standards set forth in OAR 660-014-0020(2). As noted in *Doherty*, the standards of OAR 660-014-0040(2) and (3) become the relevant criteria in cases such as this that propose urban uses on rural lands. Therefore, the criteria of OAR 660-014-0040 are addressed in lieu of the OAR 660-014-0020 criteria.

supported. In this case, the new jail is located outside the UGB and is recognized as providing stable, new job opportunities for the community. In addition, DLCD's response fails to recognize a need to supply desired housing for upper-income individuals on lots sized larger than allowed in a UGB and the connection that attracting such human capital to an area has for providing jobs within a UGB. This particular property is well suited to supply that need, given its proximity to the City of Madras and the City's indication that this land is not desirable to be developed at urban densities due to concerns about developing at urban densities and providing urban services to the property.

With regard to the Department's response to the second reason, the Department fails to recognize the unique infill nature of the subject property that bridges approved urban subdivisions located within the City of Madras UGB immediately to the northeast and to the south and that contemplate further development on the subject property to provide that bridge. In this case, it is the City that determined a need under the unique circumstances concerning the geography in this case for a road to cross the property to link up existing city streets. These adjacent properties are already proposed for urban development in a manner that requires such a connection; accordingly, it is not appropriate and makes no sense to say that these connections must wait until the subject property is eligible to be brought into the UGB. The Board agrees with the Applicant's assertion that the City has expressed an intent that the subject property should never be brought into the UGB, as noted above.

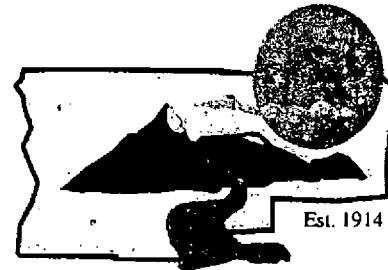
With regard to the consistency of the proposed zone change with the urban reserve designation of the property, the Board finds that the subject application was submitted prior to the effective date of the plan amendment and that it is not affected by the urban reserve designation. Furthermore, even if the urban reserve were to be applicable to the subject proposal, the County's comprehensive plan, specifically urban reserve Plan Policy 4.2, expressly allows for a limited number of RR-2 zone changes as a transition to the urban reserve zoning. The Board takes official notice that that policy has been approved by the Department and acknowledged by LCDC. Given that the number of zone changes within the urban reserve to RR-2 are limited to that finite number applied for prior to the effective date of the urban reserve, there is no basis for the Department's supposition that allowance of these few 2-acre lots will have any measurable impact on the population allocation between urban and rural areas within Jefferson County.

In response to the City of Madras' comments, the Board finds first that under state law the applicant's submittal is not dependent upon the existence of plan policy 4.2 and that in any event, the policy is not applicable to the subject proposal, having been made prior to the effective date of the urban reserve adoption. Moreover even if plan policy 4.2 were applicable, the City's letter of June 17, 2009 misquoted the urban reserve plan policy 4.2, as banning any land division of less than 10 acres. In fact, the adopted version of urban reserve plan policy 4.2 expressly recognized as a transition to the urban reserve zoning a limited opportunity until the effective date of the urban reserve for property owners, such as the applicant, to apply for RR-2 zoning, consistent with the urban reserve zone.

The Board finds that this application is driven by the unique facts related to this particular application, such as its infill location adjacent on three sides to the existing city limits or proposed rural industrial development, its relationship to existing or proposed urban infrastructure on adjacent properties within the UGB, the fact that the subject parcel is part of a tract that is physically cut-off by development or proposed development from any property currently in farm uses, and the fact that the subject parcel falls within the transitional rules for the urban reserve and that it does not establish a precedent applicable across the board for allowing 2-acre zoning in the rural areas within the County.

JEFFERSON COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT

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



June 25, 2009 Hearing

STAFF REPORT
CASEFILE 08-PA-05

Applicant/ Joel Fuller
Owners: 701 W. 58th Street
Anchorage, Alaska 99503

Agent: Bruce White
Bruce W. White, Attorney, LLC
P.O. Box 1298
Bend, Oregon 97709

Request: A request to change the Zoning Map designation from Rural Residential RR-10 to Rural Residential RR-2; and take an Exception to Statewide Planning Goal 14, which requires a Comprehensive Plan amendment. If approved, the property could support a maximum of nineteen 2-acre lots.

Tax Lot: 11-13-11-500

Account
Number: 1295

Location: The subject property is located just north of the Sunrise Estates subdivision, west of the City of Madras urban growth boundary (UGB), and just east of the City of Madras'-owned Industrial Reserve property.

Planning
Designation: Rural Land

Zoning: Rural Residential RR-10.

Size: The property is approximately 39 acres.

Lot Legality: The property is a legal lot of record, which was reconfigured through an application for a Plan Amendment through Casefile 03-BA-09.

Exhibit B

APPLICABLE STANDARDS: Part 5 of the 2007 Jefferson County Comprehensive Plan, Sections 304 and Chapter 8 of the 2007 Zoning Ordinance; ORS 197.625(3), ORS 197.732, OAR 660-004-0018, OAR 660-004-0022, OAR 660-004-0040, and OAR 660-012-0060.

FINDINGS OF FACT:

A. A Zone Change is required to change the zoning of the property from RR-5 to RR-2. A Comprehensive Plan amendment is required as well, as the proposal involves the rezone of exception lands. 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: As of this writing, 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. As part of this application, the applicant is requesting an exception to Statewide Planning Goal 14. 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 Findings D and E.

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

Finding: The following Comprehensive Plan policies are applicable:

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 affect the quality of the air, water, and land resources in the County. During review of a future subdivision, the applicant will be required to demonstrate that the individual lots can support on-site septic systems through site evaluations. Approval of the proposed zone change does not guarantee that all of the lots permitted under the new zoning designation will be suitable for on-site septic systems.

The subject site has sloping topography, and containing runoff onsite can be attained using methods such as drainage swales or detention ponds. The property is adjacent to land owned by the City of Madras and zoned Industrial Reserve, and is separated from active farming further west by the railroad. Land to the east and south is developed with residential uses, which are compatible with the proposed lower density residential land uses proposed in this application.

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.*

Finding: The site is currently zoned for 10-acre minimum lot sizes, approved through Board Order O-59-04 on May 26, 2004, when the applicant received approval for a Plan Amendment and Zone Change from EFU to RR-10, based on the findings that the property was irrevocably committed because it borders the Madras City Limits on two sides and a railroad on the third side. The County also approved an exception to Statewide Planning Goal 3 through the approval.

The proposal conforms to Policy 1, 1.2, as the zone change would provide rural residential land outside the City Limits, with 2-acre minimum lot sizes, and provides opportunities for increased density for residential development as opposed to rezoning new areas. The application complies with Policy 1.1, as the proposed zoning will allow 2 acre lots, typically the minimum to allow onsite septic disposal systems.

- 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."*

Finding: The site is located within an existing rural residential area. While the site is within the Madras URA, the URA was not adopted (effective) until December 1st, after the applicant filed this application, and further, the URA has not yet been acknowledged by the State.

Policy 2.2 states that a shadow plat should be provided and the applicant will be required to provide a Conversion Plan for review by the City and County, in order to assure that the property can be divided in the future to meet City densities at the time of subdivision as the property is within the City's Urban Reserve Area. As shown on the Concept Plan submitted by the applicant (Exhibit 6 of the applicant's burden of proof statement), if approved, the new zoning designation would allow a maximum of nineteen lots¹, averaging 2 acres each. When read with

¹ Based on the size of the 39-acre subject site, RR-2 zoning would allow a maximum of 19 lots. However, as illustrated in the applicant's Concept Plan (exhibit 6 of their submittal), because of road right of way, only eighteen lots are likely to be developed on the property.

Exhibit B

policy 1.2, it is preferable to increase densities in existing rural residential areas rather than rezone new areas, and the proposal is consistent with this policy. Based on these findings, the proposal complies with Goal 10, policy 2.2 above.

2.3: *"Areas proposed to be rezoned for rural residential development should have adequate water, road access, law enforcement, fire protection and schools."*

Finding: As stated on page 21 of the applicant's burden of proof statement, the subject can be served with necessary public facilities and services. Deschutes Valley Water District can provide water to the subject site. Law enforcement is provided by the County Sheriff. Fire protection is provided by Jefferson County Rural Fire Protection District #1, and schools are provided throughout the Madras area from the Jefferson County School District 509J. A school bus route is available near the subject property. Therefore, the proposal complies with the Goal 10, policy 2.3.

Goal 11, policy 1: "The presence or availability of water from the Deschutes Valley Water District should not be the basis for allowing increased density or a smaller minimum lot size than would otherwise be approved if water service were not available."

Finding: The availability of Deschutes Valley Water District (DVWD) water is not a determinative factor. Future lots of 2 acres are adequate to support a domestic well if DVWD water was not available; therefore the proposal is consistent with Goal 11, policy 1.

Goal 11, policy 3: "Public facilities and services should be provided at levels and in areas appropriate for such uses based upon the carrying capacity of the land, air, and water."

Policy 3.1: "Public facilities and services proposed for areas outside urban growth boundaries should be provided at levels appropriate for rural rather than urban uses."

Finding: Public facilities and services are provided at levels and in areas appropriate for such uses based on public laws, budgets, and public support for land, air, and water capacity. Adequate water capacity is available through the DVWD. The public facilities and services at the site are considered rural, because they do not require an urban level of services such as a sanitary sewer or developed storm drainage system, or urban level police, fire, or other services typically provided by a city. The property is within the fire protection district, and is served by public utilities, including electric, phone, and water that currently serve the adjacent Sunnyside Estates subdivision. Based on these findings, Goal 11 policy 3 is satisfied.

Goal 12, policy 1: "Adequate access should be required for all new development and proposed new lots or parcels."

1.1: "Road access to new development should be adequate to safely handle the anticipated traffic load."

Finding: Because the property is within the City's Urban Reserve Area, the developer will likely be required to meet City road and access standards, and dedicate additional right of way when a subdivision occurs in the future. The property currently accesses Belmont Lane through local streets through Sunrise Street. Additional access may be developed in the future, with the

Exhibit B

construction of near-by approved developments such as Park Place and Sun Ridge (to the northeast of Tax Lot 500), via H Street and G Street.

Belmont Lane is listed as a Minor Collector in the County's TSP. Inside the City, J Street (Belmont Lane's extension within the City Limits) is listed as a Major Collector in the City's TSP. The level of traffic identified in the County TSP for minor collectors is 500 to 2,500 average daily trips (ADT). The City's TSP does not specify levels of traffic for major collectors. The proposed zone change would allow an additional 16 lots over the level of development allowed under the current zoning, and an additional 153 ADT. According to the ITE Manual, an additional 16 p.m. peak hour trips would be generated. Given the relatively low volume of traffic generated by the proposal, the type of traffic – residential traffic – is consistent with the functional classification of the collector streets.

Belmont Lane is a slightly rolling roadway near the subject site, which may require improvements because of limited sight distance for turning movements. Improvements will be assessed at the time of subdivision. Additionally, there are improvements listed for the J Street/Culver Highway intersection within the Madras TSP. Depending on when the subject site is developed, the applicant may be required to contribute to the improvement of the intersection based on a proportional share of the impacts of the additional lots.

Goal 13, policy 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: This proposal complies with Goal 13 policies, as the area to be rezoned is located in close proximity to the City of Madras. Increasing the density in this area may reduce transportation energy costs because the site is adjacent to the Madras City Limits, and driving may be minimized.

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 applicant's burden of proof statement provides that the proposed change is necessary due to changes in economic and social conditions in the Madras area. The proposal is for rezoning that would allow for up to 16 additional homesites on lots averaging 2 acres in size that would support higher-end homes.

In the applicant's justification for a "Reasons" exception (pages 8 and 9 in the applicant's burden of proof statement), the applicant notes that with changing demographics in the Madras community, there are limited housing options for those seeking upscale housing. This was recognized by the City of Madras in its 2002 urban growth boundary expansion (Introduction – Periodic Work Task #1A and B, Page 2). It has again been recognized by the City of Madras in its April 2007 Urbanization Study (ECONorthwest, Madras Urbanization Study, Final Report, April 2007, Pages 2-4, 4-17, 4-27, 4-31).

Exhibit B

The economic benefits of providing for higher-end housing is noted in the 2007 Madras Urbanization Study, adopted by the City of Madras in December 2007, as follows:

"When a variety of housing types (including housing types that are commensurate with all income levels) are represented in a community, workers need not leave the community where they work to find the needed housing type of their choice. Thus, a community is able to attract a variety of people, creating diversity of citizenship and a diverse tax base. Conversely, the failure of a community to provide land for needed housing types cause communities to fail to maintain its work force, fail to attract business, fail to achieve or maintain diversity of citizenship, unnecessarily burdens social services (or conversely burdens social services in other communities), and contributes unnecessary vehicle miles traveled outside of the community to find needed housing types. When a community fails to provide an adequate amount of land for higher-income households, for example, demographics may be created that place a disproportionate burden on social services, without the attendant tax base to support the provision of such services." (Madras Urbanization Study, page 4-17.)

The applicant also points to trends in in-migration to Central Oregon, and additionally, the Deer Ridge Correctional Facility located approximately 3 miles outside the Madras City Limits and UGB, as a driving factor in creating the need for additional higher end housing. Although the economy has slowed, and housing prices are falling, representative of the current economy, there will nonetheless be the need for higher end housing choices, once the economy improves.

Additionally, the applicant discusses a second economic reason, or changing environment, that warrants the requested Plan Amendment/ Zone Change. The proposal, if approved, would provide for street connectivity for adjacent urban development - development at a higher density and with a smaller minimum lot size of 2 acres will allow for extension of roads across the subject property and a portion of the adjacent Tax lot 100 to the north in a manner that would allow for such a street to connect the streets in the Sunnyside Estates subdivision with the streets in the proposed SunRidge subdivision. The approval for SunRidge requires that a connecting road be built between the roads in proposed Phase V of the SunRidge development and the roads in the Sunnyside Estates development to the south. SunRidge decision, as modified, Condition 3. M-07-7. The smaller lot sizes would allow for a grid-like pattern of street connections between Sunnyside Estates and SunRidge that would not be possible with the larger lots sizes of the RR-10 zone. A proposed map is shown in Exhibit 4 of the applicant's submittal.

The changing economic conditions, combined with adjacent development patterns that require connectivity in order for development to proceed, provide justification for the proposed zone change, in accordance with Criteria 3.

B. The proposal involves changing the Zoning Map designation from RR-10 to RR-2. 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

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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: The Comprehensive Plan Map designation for the property is currently Rural Land; following the zone change, the designation will remain Rural Land. Both RR-2 zoning and RR-10 zoning are allowable under the Comprehensive Plan designation of Rural Land.

- 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 proposal's compliance with other applicable JCZO requirements is addressed throughout this staff report. The site is not within a wildlife or bird habitat, or near a riparian protection area.

- 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: As noted in the applicant's burden of proof statement (page 19), the characteristics and potential impacts from the zone change are similar to the existing impacts of the property with its current zoning of RR-10. Sewage disposal systems must meet DEQ requirements to serve each of the lots proposed. 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. According to the County Engineer, the site does appear to be able to accommodate a drainage system that will retain all runoff on site.

At the time of subdivision, road improvements will be required to ensure adverse impacts associated with the development are adequately mitigated. If approved, the proposed amendment will likely not result in conflicts in terms of noise. Single family residential uses are generally not viewed as noise generators, but are characterized more as noise-sensitive uses.

The amendment will not adversely impact other properties in terms of drainage, air quality, and noise. Factors such as water quality and transportation can be assessed at the time of subdivision, and improved to mitigate negative effects prior to allowing development on the property. In addition, the 2-acre lots will provide a buffer between the 7,500 square foot lots to the east from the more rural land to the west and north. Therefore, the proposal complies with Criteria C.

- 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: Directly north of the subject site is approximately 87 acres of land zoned EFU A-1. The site is owned by the applicant, is not currently being farmed, and lies outside the Madras UGB. The property was at one time farmed in conjunction with the subject property. As detailed in the applicant's burden of proof, farming on this tract was unsuccessful, and no farming has occurred since 1991. Water rights were transferred off the property in 1994. A 40-

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acre portion of that property was included in the Madras City limits in the original City Charter and in the 1947 Charter, but was later removed.

The EFU A-1 land to the north does have the ability to be farmed in terms of soils and availability of irrigation. However, the subject site is already designated and zoned for rural residential development. Under the current zoning, the property could support approximately 3 lots; under the proposed zoning, the property could support an additional 16 lots. Because the subject site is already zoned and designated for residential uses, the addition of 16 additional residential lots will not materially affect the cost of farming practices on surrounding resource land, as the land is somewhat separated from other larger tracts of resource land by the railroad, is separated from a nearby irrigation canal, and is adjacent to the subject site which is already zoned and designated for rural residential development.

Given the separation of the property from agricultural activity on surrounding lands and its proximity to the City, approval of this request will not result in a loss of opportunity land that could be added to existing farming operations, nor will the rezone adversely affect nearby resource lands. Therefore, the proposal complies with Criteria D.

- 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 Rural Fire Protection District #1. Water is available through the Deschutes Valley Water District, and electricity is available through Pacific Power to serve the additional lots. A drainage plan will be required at the time of subdivision, to ensure that runoff is contained onsite and that surface water does not adversely affect neighboring properties.

As part of review of a future subdivision, septic evaluations will be necessary, and all lots may not be able to support onsite septic systems. Sewage disposal will be accommodated through on-site septic systems, which must meet Department of Environmental Quality (DEQ) requirements. Public sewer cannot be extended to serve land outside the UGB, and a community sewer system is not allowed to serve the site.

It is not necessary to show that adequate sanitation can be provided before the property can be rezoned – this can be assessed when a subdivision application is submitted. A subdivision plat cannot be signed by the County Sanitarian until it has been determined that each lot can be served by a septic system. Therefore, if adequate sewage disposal meeting DEQ requirements is not possible, the lots cannot be created regardless of the minimum lot size allowed by the zone. With regulations in place ensuring adequate review at subdivision, the application complies with Criteria E.

- 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*

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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: Rezoning the subject property from RR-10 to RR-2 will not change the functional classification of an existing or planned transportation facility, as the request will add an additional 153 ADT to the roadways. This addition will not change the functional classification of the adjacent roadway, as noted in previous findings. Rezoning the subject property from RR-10 to RR-2 will not change standards implementing a functional classification system. The proposed plan amendment and zone change does not propose to change or implicate changes to any transportation facility or the manner in which such facilities are classified. Therefore, this criterion is likewise not applicable to the proposal.

Criteria F(2) requires that the comprehensive plan and zoning map amendments will not allow levels or types of land uses that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility. With this proposal, the affected roadways are:

- Culver Highway (ODOT Highway 361)
- SW Belmont / J Street
- Roadways in the adjacent subdivisions and the subject property

With regard to the Culver Highway (Highway 361), the 1999 Oregon Highway Plan, as amended, designates the Highway as a District Highway² (1999 Oregon Highway Plan, Appendix D). District Highways are defined to be facilities of County-wide significance that function largely as county and city arterials or collectors. The management objective is to provide for safe and efficient, moderate to high-speed continuous-flow operation in rural areas reflecting the surrounding environment and moderate to low-speed operation in urban and urbanizing areas for traffic flow and for pedestrian and bicycle movements. Inside Urban Business Areas, mobility is balanced with local access (1999 OHP, pages 41-42).

As found in the applicant's Transportation Impact Analysis (TIA), the additional levels of traffic that would be generated in connection with the proposed plan amendment and zone change for the subject properties will be consistent with the classification of the Culver Highway as a district highway. The additional traffic generated by the proposed zone change would be local traffic and to the extent that traffic were to use the Culver Highway, it would be consistent with the function of the Culver Highway as a collector in the local street network, providing a link between the network of County and City collectors and local streets that would serve the subject property and other destinations. Access to the Culver Highway would be limited to approved local road accesses, such as at J Street and H Street. Because of intervening development between the subject property and the Culver Highway, there would be no direct access from the subject property onto the Culver Highway.

Belmont Lane is listed as a Minor Collector in the County's TSP. Inside the City, J Street (Belmont Lane's extension within the City Limits) is listed as a Major Collector under the City's

² The updated TSP of the City of Madras indicates that the truck route is contemplated as being a 4-lane, limited access expressway in the future. However, the OHP has not been amended to reflect that status.

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TSP. The purpose of a minor collector is to connect local traffic to arterials and major collectors and arterials, while providing some degree of access to adjacent lands. The purpose of a major collector is to link arterials with the local street system.

In this case, the level of traffic contemplated in the County TSP for minor collectors is 500 to 2,500 average daily trips (ADT). The level of traffic contemplated in the City TSP for major collectors is not specified. The proposed zone change would allow an additional 16 lots and an additional 153 ADT and according to the ITE Manual, an additional 16 ADT during the PM peak hour. Given the low volume of traffic on these streets, the addition of this amount of traffic will be consistent with the functional classifications of these streets. The type of traffic – residential traffic – is consistent with the functional classification of the collector streets.

With respect to access, the newly created lots of the subject subdivided property would be accessed by local streets so there would be no new points of access directly onto a collector if the proposed zone change were to be approved. The development area would access the streets within the property itself, streets in the existing and proposed Sunnyside Estates and SunRidge developments and the extension of H Street to the Culver Highway. Residential traffic would be consistent with the kinds of traffic that are contemplated by the affected local streets. The addition of 16 residential lots – or 153 ADT or 16 PM peak trips -- to the local street network set and the streets within the proposed zone change would be consistent with the levels of travel contemplated on local streets. No direct access from the property will be made to collectors or other higher order streets.

The applicant's TIA analyzed the affected intersections to determine whether the amount of traffic exceeds the capacity of an intersection, as expressed in the relevant TSP during the planning period. In this case, the relevant TSPs are assumed to be the ODOT's Oregon Highway Plan (with respect to the Culver Highway), the County TSP (as it relates to a segment of Belmont Lane) and the City of Madras TSP.

The performance of each of these intersections, with traffic added by the increased density of RR-10 to RR-2 has been analyzed as part of the TIA. With the completion of the improvements called for in the City of Madras TSP for the J Street/ Culver Highway intersection, the relevant performance standards are met during the assumed planning period.

Because the subject site is within the City of Madras's proposed URA, the applicant will likely be required to submit a Conversion Plan to the City at the time of subdivision. During subdivision of the property, the road alignments, necessary right of way, and improvement requirements will be determined, based either on Jefferson County Road Design Standards, Section 12.18.090, or City of Madras standards.

- 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 proposal is to establish a smaller minimum lot size within the existing Rural Land zone. Therefore, the applicant has provided findings addressing the need for an exception to Goal 14, provided under Findings D and E.

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- 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 RR-10 to RR-2. The requirements for taking an exception to Goal 14 are addressed in Findings D and E.

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

Finding: The proposal is to rezone the property to RR-2, not EFU A-2, so the standards in Section I do not apply to the application.

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

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. Citizens are provided the opportunity to comment on the application in a minimum of two public hearings, one before the Planning Commission, and another before the Board of County Commissioners. 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. The site was approved for rural residential zoning designation through an Exception to Goal 3 in 2004 through Board Order O-59-04. The subject site is zoned and designated for rural residential development, so Goal 3 is not applicable to the proposal.

The purpose of 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 with 16 more lots than can currently be provided, which will have a minimal impact on air quality. Sewage disposal will be accommodated through 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. Prior to approval of a future subdivision, the developer will need to show that each lot can be served by a septic system. A subdivision plat cannot be signed by the County Sanitarian until he has determined that each lot can be served by a septic system. Therefore, even if the proposal is approved and the density for the subject site is increased, there is no assurance that all the lots could ultimately be developed.

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prior to site evaluations. 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. 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 within a UGB.

Goal 12 requires jurisdictions to provide a safe, convenient and economic transportation system. Although the proposed rezone would not change the functional classification of surrounding roadways, as noted in the applicant's traffic impact analysis. Specific transportation improvements necessary to accommodate the impact of the development proposal will be addressed at the time of subdivision.

The proposal conserves energy because the property is within just over a mile from 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 directly to the west of the Madras UGB. Goal 14 is addressed further in Findings D and E.

Goals 15-19 do not apply to the subject property, as they are focused on the Willamette River and coastal areas.

D. 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-2, with a two acre minimum lot size; the proposal does not comply with subsection (A). Therefore, an exception to Goal 14 is required in accordance with subsection (B).

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E. OAR 660-014-0040 contains the requirements for taking an exception to Goal 14:

- (1) *As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.*
- (2) *A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.*

Finding: The applicant asserts that there are two reasons which justify an exception to Goal 14: (1) that pursuant to Statewide Planning Goal 9 – Economic Development - there is a need to provide for high-end housing with rural amenities to help attract people of means to the community and to compete with other cities in Central Oregon to supply housing desirable to persons relocating to Central Oregon; and (2) that pursuant to Goals 11 and 12 development of the property at smaller lot sizes facilitates the completion of a network of urban streets to connect adjacent properties within the existing UGB and within the City Limits of the City of Madras.

As noted previously in this staff report, there are limited housing options for those seeking upscale housing in the Madras community, as recognized was by the City of Madras in its 2002 urban growth boundary expansion, and again in the Madras URA project.

The applicant notes that providing housing for people with higher incomes can facilitate economic development by providing capital and expertise for business enterprises. Providing an attractive place for such persons to live can make the difference in whether they choose to and become a part of the community or not.

The applicant provides evidence from the Madras Urbanization Study, indicating that the key factor fueling the need for higher end homes is the trend toward in-migration to Central Oregon and the need to compete with other communities to supply the needs of such new residents. (Madras Urbanization Study, Page 4-27). The most specific example of this is the opportunities presented by the new Deer Ridge Correctional Institution, located in the Madras area, which opened in September 2007. The Community Impact Study (CIS) for the proposed facility specifically found that the opening of the Deer Ridge facility and the higher wages it would bring would create a need to provide for higher end homes in the Madras community, in order to compete with housing opportunities provided in nearby communities in Central Oregon (CIS, Phase III, Pages 9, 22).

It should be noted that the Deer Ridge Correctional Facility is located approximately 3 miles outside of the City of Madras and outside the Madras Urban Growth Boundary. Therefore any need for higher-end housing that is driven by the prison is based on a use that is not contained within an existing UGB.

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The applicant's second reason for requesting the exception to Goal 14 is regarding the need for street connectivity for adjacent urban development. According to the applicant, development at a higher density and with a smaller minimum lot size of 2 acres will allow for extension of roads across the subject property and a portion of the adjacent Tax lot 100 to the north in a manner that would allow for such a street to connect the streets in the Sunnyside Estates subdivision with the streets in the proposed SunRidge subdivision. The approval for SunRidge requires that secondary access be built between the roads in proposed Phase V of the SunRidge development and the roads in the Sunnyside Estates development to the south (SunRidge decision, as modified, Condition 3. M-07-7) If approved, the smaller lot sizes developed on the subject site would allow for a grid-like pattern of street connections between Sunnyside Estates and SunRidge that would not be possible with the larger lots sizes of the RR-10 zone. A proposed Concept Plan is shown in Exhibit 6 of the applicant's submittal.

(3) *To approve an exception under section (2) of this rule, a county must also show:*

(a) *That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;*

Finding: The proposed residential use of the subject property cannot be reasonably accommodated by expansion or intensification of uses within the Madras UGB or other rural residential areas. The residential zoning within the UGB has minimum lot sizes substantially smaller than the 2-acre lot size zoning proposed here, and the application of Goal 10 regarding needed housing would likely preclude development on the larger lot sizes that some people prefer. Recent subdivisions within the City of Madras have largely been proposed for smaller urban-sized lots of about 10,000 square feet or under. See, e.g., Miller Crossing, Madras Decision SD-06-10 (50 lot- subdivision with lots between 7,500 to 8,866 square feet in size), SunRidge, City of Madras Decision SD-06-11 (111-lot subdivision with lots between 7,500 to 11,562 square feet in size).

The lots in the first phase of the Yarrow master planned community range between 6,226 square feet and 16,439 square feet, with 17 of the 27 lots in the first phase being less than 10,000 square feet in size. While the Madras Urbanization Study recognizes that the amenities provided by master plan communities within the UGB will satisfy the need for upper end homes, the study recognizes that only "a portion" of such need should be expected to be met by such planned communities (Madras Urbanization Study, Page 4.39).

With regard to whether the proposed use can be accommodated on other rural residential exception lands, other rural residential lands that would allow for 2-acre lots are not available for such use. For example, the adjacent RR-2 lands are built out within the Country View Estates subdivision. Similarly, the RR-2 lands on the east side of Highway 97 in Section 31 are largely built out with the North Madras Heights subdivision. South of the Madras UGB, the Canyon View Estates Subdivision, made up of RR-2 zoned lands is largely built out as is the adjacent Madras Ranchos subdivision, made up of RR-5 zoned lands.

Furthermore, a street connection between the proposed SunRidge subdivision and the existing Sunnyside Estates subdivision, as required by Condition 3 of the modified SunRidge decision, is not possible without traversing the subject property. No connection can be made with the access

street in Sunnyside Estates, as contemplated in the SunRidge decision (see p. 5) without the road link provided by the subject property outside the UGB. (See Exhibit 6.) The smaller lot sizes provided by the RR-2 zoning facilitates making a road connection across the property in a manner that supports providing urban services to the adjacent urban uses within the City of Madras and its UGB.

(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

- (A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and*
- (B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.*

Finding: The economic, environmental, social and energy consequences resulting from the proposed development is not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural land in the area, given the absence of adjacent farming and irrigated ground, the topography of the property, the isolation of the property by roads, infrastructure, existing development, topography from other farm ground, its proximity to other developed subdivisions with small lots in the area within the City limits.

With respect to OAR 660-014-0040(3)(A), at 39 acres, developed with up to 19 homesites, the amount of land and the proposed housing density is not excessive and in fact covers less overall ground than other rural residential developments in the area, such as the Madras Ranchos and the Canyon View Estates subdivisions. The subject property is not irrigated and has not been in agricultural use in recent years, so approval of this request will not result in displacement of any agricultural uses. Given the separation of the property by the railroad and the irrigation canal from agricultural activity on surrounding lands and its proximity to the City, approval of this request will not result in a loss of opportunity land that could be added to existing farming operations.

The proposed development is not limited by the air, water, energy and land resources available at the site.

(a) The proposed development will not adversely affect air quality, as the homes will not emit noxious gases and likely will be heated by electric heat, which is available to the site.

(b) From contact with Deschutes Valley Water district, it does not appear that the District would have any water capacity limitations in serving the project from its existing lines that already provide service to the site. (See Exhibit 7 to the burden of proof.)

(c) Urban development is not limited by energy resources at or available to the site. As

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demonstrated by the letter from Pacific Power, the site can be served by electricity, which can heat the dwellings on the proposed lots. (See Exhibit 8 to the burden of proof statement.)

(d) Urban development is not limited by land resources at the site. The land does not contain any wetlands that would limit development. The proposed development would lie on sloping, un-irrigated property that is well suited to development.

The proposed zone and plan designation change will not have a more adverse effect on the air, water, energy and land resources of properties in the surrounding area than if the development were located elsewhere for the same reasons given above. Because the site can be served with services or can be improved to serve the level of development expected on the site, the air, water, energy, and land resources of the surrounding area will not be negatively affected by the proposal, in compliance with OAR 660-014-0040(3).

(c) *That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:*

(A) *Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and*

(B) *Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.*

Finding: The subject site is isolated from nearby farm uses by the railroad and the irrigation canal and by the intervening industrial land owned by the City of Madras. It is adjacent to residential lands that are planned for development at urban densities to the east.

The proposal complies with Criteria (c)(A), as the future development would not detract from the ability of existing cities and districts to provide services. The City would not be expected to provide sewer service to the properties. The homes on the new lots would be served by on-site septic systems, which would be evaluated by the County. Deschutes Valley Water serves the entire surrounding rural area and would be able to serve residential uses at the property. The property is adjacent to two developing subdivisions that front on developed City roads with adequate capacity. Additionally, development of the property at 2-acre densities can facilitate extension of a street grid network connecting adjacent properties within the City limits in a manner that can be a benefit to providing urban services within the City limits.

With respect to Criteria (c)(B), the potential for continued resource management at present levels for nearby resource lands is somewhat minimized by the fact that there is no active farming on adjacent farmland to the north, nor has there been farming on the property for several years, according to the applicant. The closest farming activities take place to the west of the railroad tracks, the main irrigation canal, and the City's industrial-zoned land. Given the lack of farming on adjacent lands and the substantial buffer between the farm lands to the west, development of the property will not adversely affect present levels of resource management of those lands. Additionally, the relatively low density development would provide a buffer between the urban residential development to the east and the farmland to the west.

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- (d) *That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and*

Finding: As stated in previous findings, all necessary public facilities are in place, and are available for future development at levels that can support the RR-2 development. The applicant will likely be required to upgrade the transportation system serving the development area at the time of subdivision.

- (e) *That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.*

Finding: The proposal is consistent with criteria e, as the Comprehensive Plan and the City of Madras's Urban Reserve Area requirements have been evaluated in determining whether the proposal is consistent with requirements of the Comprehensive Plan and with coordination between the City and County. Existing policies in the County's Comprehensive Plan point to the need for some larger lots near the City of Madras. Goal 10 Housing, policy 1.2 states, "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." In this case, the applicant is proposing to increase the density within an existing rural residential area, rather than use resource lands to satisfy the demand for 2-acre lots. Additionally, at the time of subdivision or partition of the subject site, the applicant will be required to provide a Conversion Plan, to illustrate how the property will transition into City densities.

- (3) *Uses, density and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in Section (4) of the rule and OAR 550-004-0020 through 660-004-0022.*

Finding: The applicant's proposed zoning of RR-2 requires a further exception from Goal 14. Accordingly, applicant has applied for an exception to Goal 14 for 2-acre minimum lot sizes and has addressed the relevant criteria in this Burden of Proof related to Goal 14.

(4) *Reasons Exceptions:*

- (a) *When a local government takes an exception under the Reasons section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses to only those that are justified in the exception.*

Finding: As noted in this burden of proof statement, these provisions apply with respect to the "reasons" exception from Goal 14. The reasons exception was sought in order to allow for minimum lot sizes on the subject property of less than 10 acres. Applicant's proposed zoning of RR-2 is consistent with the reasons exception applied for in that the highest and best use in the RR-2 zoning allows for single-family residential uses and allows for minimum lot sizes consistent with those used to justify the exception.

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CONCLUSION: The application complies with the requirements for an exception to Statewide Planning Goal 14 in OAR 660-004-0022, as the applicant has provided justification for the need for additional 2-acre lots within the immediate vicinity of the City of Madras, and this need cannot be reasonably accommodated by land inside the City of Madras's UGB, or other existing rural communities, in compliance with OAR 660-004-0020(2)(b). The subject site is immediately adjacent to the City of Madras UGB and separated from active farming by land zoned for future industrial uses and the railroad.

The application complies with the requirements in OAR 660-014-0040 for taking an exception to Goal 14 to allow lots less than ten acres in size as the applicant has provided adequate justification for taking an exception. The applicant has provided justification for a reasons exception, including (1) the need to provide for high-end housing with rural amenities to help attract people of means to the community and to compete with other cities in Central Oregon to supply housing desirable to persons relocating to Central Oregon; and (2) that pursuant to Goals 11 and 12 development of the property at smaller lot sizes facilitates the completion of a network of urban streets to connect adjacent properties within the existing UGB and within the City Limits of the City of Madras.

As shown throughout this staff report, the proposal complies with all other applicable requirements, such as the Jefferson County Comprehensive Plan, ORS 197.625(3), ORS 197.732, and relevant Statewide Planning Goals.

During a future subdivision for the property, the applicant may need to make improvements to the adjacent transportation system, and show that individual lots can accommodate drainage, onsite septic systems, and other necessary facilities, and additionally, illustrate compliance with Madras Urban Reserve Area requirements through a Conversion Plan.

RECOMMENDATION: Staff recommends that Casefile 08-PA-05, an application for a Zone Change and Exception to Statewide Planning Goal 14 to rezone tax lot 11-13-11-500 from Rural Residential RR-10 to Rural Residential RR-2 be approved.

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