



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/07/2011

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 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Tuesday, November 22, 2011

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

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

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

Cc: Margaret Boutell, Jefferson County
Jon Jinings, DLCD Community Services Specialist

<paa> Y

FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

NOV 02 2011

LAND CONSERVATION AND DEVELOPMENT

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: 10-PA-02

Date of Adoption: 10/26/11

Date Mailed: 10/27/11

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: 3/30/11

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 received a Goal 3 exception, Plan Amendment and Zone Change for approximately 190 acres of land. The current Plan designation is Range Land and a portion of the property is in the City of Madras Urban Reserve. The current zoning is Range Land (RL). The proposed plan designation is Rural Land. The proposed zoning is Rural Residential-10 (RR-10, 10 acre minimum). The applicant received a reasons exception approval. The property will remain in the Madras Urban Reserve.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: EFU Range Land

to: Rural Residential

Zone Map Changed from: Range Land (RL)

to: Rural Residential-10 (RR-10)

Location: 1522 SE Grizzly Rd, Madras, OR 97741 11-14-18-101&11-14-19-1091&1092 Acres Involved: 190

Specify Density: Previous: N/A

New: 10 acre minimum lot size

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact: **Heidi Bauer**

Phone: (541) 475-4462 Extension: 4150

Address: **85 SE "D" Street**

Fax Number: **541-325-5004**

City: **Madras**

Zip: **97741**

E-mail Address: **Heidi.bauer@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 AMENDMENT)
TO THE JEFFERSON COUNTY)
COMPREHENSIVE PLAN MAP AND)
ZONING MAP FOR PROPERTY)
DESCRIBED AS T 11S R 14E SECTION 18)
TAX LOT 101 AND T 11S R 14E)
SECTION 19 TAX LOTS 1091 AND 1092)**

Ordinance No. 0-162-11

WHEREAS, James and Laura Smith own approximately 189.5 acres of land designated resource land and zoned rangeland and that property is located at 1522 SE Grizzly Road, east of the Jefferson County Transfer Station and consists of tax lot 101 in T11S, R14E, Section 18 and tax lots 1091 and 1092 in T11S, R14E, Section 19; and

WHEREAS, the owner submitted an application to for a Comprehensive Plan Map Amendment to re-designate 189.5 acres from Range Land to Rural land; and

WHEREAS, the owner submitted an application for a Zone Map Amendment from Exclusive Farm Use-Rangeland (RL) to Range Land (RR-10); and

WHEREAS, at a public meeting on June 13, 20120, the Jefferson County Planning Commission deliberated the proposal. The Jefferson County Planning Commission, having conducted a public hearing, reviewed the staff report, accepted testimony and deliberated on the evidence presented therein, was unable to reach a recommendation on the application. A motion to approve was made and seconded. However, there were only four commissioners present that were eligible to vote and the vote was two in favor of approval and two against, as such, the motion failed; and

WHEREAS, the Jefferson County Board of Commissioners conducted a public hearing on September 28, 2011 and accepted testimony on the application. At the conclusion of the hearing, the Board closed the record and deliberated on the application. After considering and testimony, the Board voted unanimously to APPROVE the application;

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

1. Adoption of Comprehensive Plan Map Amendment

The Comprehensive Plan Map is amended to change the Plan Designation of Property described on Assessor’s Map as of tax lot 101 in T11S, R14E, Section 18 and tax lots 1091 and 1092 in T11S, R14E, Section 19 and legally described as:

Parcels 1 and 2 Partition Plat No. 1996-06, recorded June 11 1996, in Plats MF#962467, Jefferson County Oregon

from Range Land to Rural Land. Exhibit A is the Comprehensive Plan Map amendment adopted by this ordinance.

2. **Adoption of Zoning Map Amendment**

The Zoning Map is amended to change the Zoning of property described as Assessors Map as of tax lot 101 in T11S, R14E, Section 18 and tax lots 1091 and 1092 in T11S, R14E, Section 19 and legally described as:

Parcels 1 and 2 Partition Plat No. 1996-06, recorded June 11 1996, in Plats MF#962467, Jefferson County Oregon

from Rangeland (RL) to Rural Residential 10 (RR-10). Exhibit B is the Zoning Map amendment adopted by this ordinance.

3. **Adoption of Findings**

The Comprehensive Plan Map and Zoning Map Amendments are sufficiently compliant 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 document attached hereto as Exhibit C.

4. **Severability**

The provisions of this ordinance are severable. If any section, subsection, sentence, clause or phrase of this ordinance or any exhibit thereto is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or exhibits thereto.

5. **Effective Date**

These amendments being necessary for immediate implementation, an emergency is declared to exist, and the specified amendments shall therefore take place and be effective on October 26, 2011.

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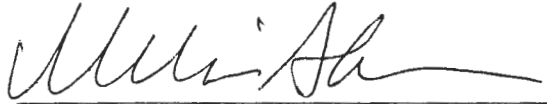
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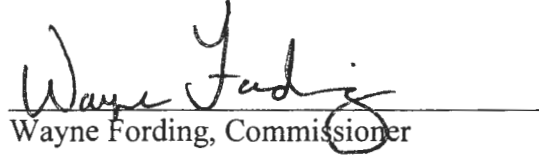
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Dated this 26th day of October, 2011.

BOARD OF COMMISSIONERS



Mike Ahern, Commission Chair



Wayne Fording, Commissioner



John Hatfield, Commissioner

Attest:

Barbara Andresen

Appeal Information

Planning Casefile #10-PA-02

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: 10/26/11

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 C; Ordinance No.

BEFORE THE JEFFERSON COUNTY BOARD OF COMMISSIONERS
FINDINGS AND DECISION
CASEFILE 10-PA-02

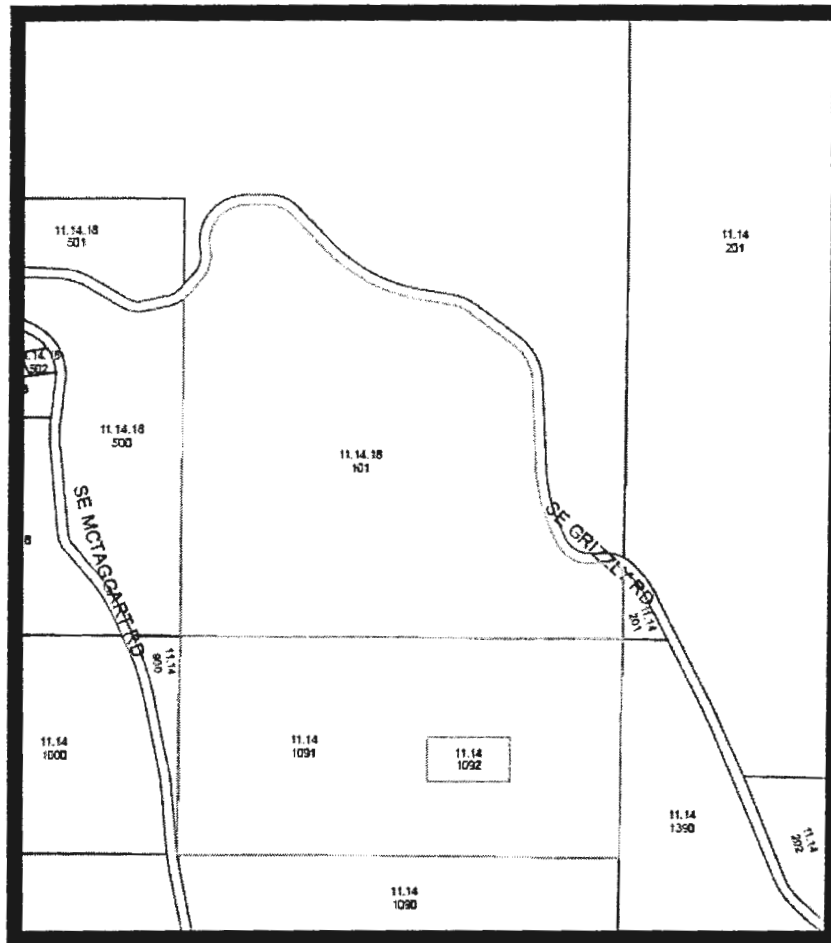
Applicant/Owner: James C. and Laura M. Smith
P.O. Box I
Madras, OR 97741

Agent:	Paul Sumner	Donald Reeder
	P.O. Box 16	205 SE 5th St.
	Madras, OR 97741	Madras, OR 97741

Request: A request to change the Comprehensive Plan Map designation from Range Land to Rural Land and change the Zoning Map designation from Range Land RL to Rural Residential RR- 10 for property located partially in the Madras Urban Reserve Area.

Tax Lots: T11S, R14E, Section 18, Tax Lot 101; T11S, R14E, Section 19, Tax Lots 1091 and 1092

Location: The property is located at 1522 SE Grizzly Rd., east of the Jefferson County Refuse Transfer Station.



Location

Planning Designation: Range Land

Zoning: Range Land with an overlay of the Madras Urban Reserve Area over the majority of the parcel

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

- A. 57% 87B Madras loam, 3 – 8% slope, agricultural capability class IVs if not irrigated, IIIs if irrigated
- B. 27% 24C Caphealy and Reuter, 8 – 15% slopes, agricultural capability class VIe if not irrigated, IVe if irrigated.
- C. 14% 80D and 80E Licksillet and Redcliff very gravelly loams, 15 – 30% slopes, agricultural capability class VII and VI respectively

- D. 2% 45A ERA sandy loam cobbly substratum, 0 – 3% slopes, agricultural capability class VIs if not irrigated, and IIIc if irrigated.

These soils were modified by a certified Soil Investigation produced by Dr. Joel Norgren which shows an increase in the area of shallow and very gravelly soils from 28% to 64%, and a decrease in the area of moderately deep soils from 73% to 37%. Deep alluvial soils increased from 2% to 9%. The predominant soils are Lickskillet, Caphealy, Reuter and Cullius – Class VI and VII soils. Regarding the NRCS Soil Survey, the 45A and 87B soils are classified as prime if irrigated. The property is not currently being irrigated, and though it is within the North Unit Irrigation District's boundaries, a letter from NUID indicates that it would be nearly impossible to get irrigation water to the property. Without being irrigated, this property is not considered high-value farmland.

The agricultural capability of the ground is further affected by locations of County Roads, historic powerline easements and non-agricultural uses of the property surrounding the parcel.

1. The soil survey prepared by Joel Norgren, PhD., ARCPACS #19602, CPSSc/SCS demonstrates that the NRCS classification was faulty. This study is contained on **Appendix A**.¹ On **Appendix B**, a key and an map view of the property with the findings of Dr. Norgren is provided by the applicant. On **Appendix C**, the findings have been superimposed on an aerial view of the property by applicant for ease of reference.
2. A summary of these findings and additional information about the property is contained in tabular format on **Appendix D**.
3. **Appendix E** provides a map showing that a long, relatively narrow area of the property is separated from the remainder of the property by a gully which carries seasonal run off (often times, excessive seasonal run off,) and the area on the opposite side of the stream way center line which is in the stream way banks and is also unavailable for agriculture. This area which by the map is about 23.2 acres is either separated by the stream way in a narrow chunk or is unavailable for agricultural purposes by reason of the steep slopes erosive and changing bank and the uncertainty of change resulting from seasonal drainage. Also removed in **Appendix D** is the area of a public road on the Southeast side of the property. Agriculture would be unavailable at this site. No reduction from agricultural capability was assigned in **Appendix D** to the sloughing bank area on the Southwest side of the property and no limitation on agricultural capability was assigned to the fact that there is an irrevocable commitment of 2.0 acres to the non-agricultural, residential use in Tax Lot 1092 and there are intersecting utility easements crossing the property including one of twenty feet for approximately 3,500 feet or an area of approximately 1.65 acres removed from agricultural usage (See April 28, 1983 deed records at instrument No. 147456 and recorded plat of June 11, 1996, Partition Plat No: 1996-06 recorded as MF No. 962467.) These exceptions to agricultural uses would further

¹ The Appendices are hereby specifically incorporated by reference.

remove this portion of the property from agriculturally capable resource property, but were not included in the analysis in **Appendix D**.

4. **Appendix F** provides photographs of the area adjoining the stream way and the property which is adversely impacted, for agricultural purposes on the West side of the property adjacent to McTaggart road and the County landfill.
5. Collectively, the majority of the land is unable to accommodate agricultural purposes. Further, it is not necessary to be preserved in order to accommodate adjoining agricultural purposes since the majority of the surrounding land is also of class VII capability or higher. See **Appendix G**.
6. Prior evaluations of the property by Jefferson County Planning and Building in "Findings and Decision, Land Division MP 95-18 at Section B. 3." found that the parcel lacked agricultural capability. This "Findings and Decision found:

"Capability class and subclass: Approximately 80% or 152 acres is made up of Lickskillet Redcliff Complex, 15-30% slopes; the remaining 20% or 28 acres is Madras loam 3-8% slopes."

See Appendix H.

7. This finding of the County Staff (in **Appendix H**) was reasonable since the identity and description of the Lickskillet Redcliff Complex and that of the Caphealy-Reuter soils are nearly identical. In questioning Dr. Norgren, the soil scientist, about this, he replied that the soils are often time called one classification when originally reviewed and this classification sticks unless there are good reasons to change it. The applicant believes that evaluation of the true capability of the soil on initial investigation would yield a different result. To further explain this, on the Applicants' side of the Grizzly Road at numerous locations, the NRCS declares that the soils have class VI capability. On the other side of the Grizzly Road, NRCS assigns the soils a Class VII capability. There is no apparent difference in the soils. By the rules of soil classification, the class VI soils will keep that classification unless proven manifest error. When the Lickskillet Redcliff Complex (Class VII) and the Caphealy-Reuter (Class VI) soils have nearly identical descriptions, such a change is unlikely.

8. This would not be the first time that this land was declared non-resource. Historically, this is one of the lands that the Federal government, in the 1930's declared to be "marginal."

Lot Legality: Tax lot 11-14-18-101 is not a legal parcel in and of itself. It was created as part of a boundary line adjustment in 1996 (BA 95-04) which transferred property from 11-14-18-100 to

11-14-19-1091. Because of mapping limitations, this lot cannot be shown on one tax map, hence there are two lot numbers for the one tax lot. Tax lot 11-14-19-1092 was created by partition plat #96-MP-06 in 1996. Therefore, both lots were legally created.

APPLICABLE STANDARDS:

Goal 14, Policy 4 of the January 27, 2010 Amended 2007 Jefferson County Comprehensive Plan; Chapter 8 of the July 14, 2010 Amended 2007 Jefferson County Zoning Ordinance (JCZO); OAR 660-004, 660-014 and 660-015.

FINDINGS OF FACT:

- A. A Comprehensive Plan Map amendment is required to change the designation of the property from Exclusive Farm Use to Rural Land. Since the application involves two lots under the same ownership, it is a quasi-judicial land use decision. 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 has been acknowledged. Consequently, the statewide planning Goals are not directly applicable except as referenced in the Comprehensive Plan. 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:

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 it is not irrigated. The appropriate zoning for this property would seem to be Exclusive Farm Use A-2, however it is already designated and zoned as Range Land.

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. According to the investigation by the County's Engineer certain parts of the property may have limited ability to locate standard septic systems. A developer, can, however use capping fill systems in areas where slopes do not exceed 12%. In addition, much of the soils on the property are too thin to support a standard or capping fill system. Other areas may be capable of supporting a sand filter or ATT system if with DEQ approved absorption tests. Septic system requirements will dictate some lot locations ensuring that sewage treatment is feasible and protects groundwater quality.

The property has steep slopes dropping off to Grizzly road to the north along the property line. Grizzly Road is a County road running down the bottom of a V shaped bottom draw draining a significant watershed. The drainage is subject to periodic high flows. The additional runoff generated by development on this site may be difficult to retain on site, which is required under current regulations. Properties to the north, east and south are undeveloped, zoned Range Land, and not in agricultural use. Property to the west is owned by Jefferson County and is used as a transfer station, landfill, and animal control facility. Due to the lack of intensive agricultural use on adjacent lands, rural residential development on the subject property would have minimal impact to the surrounding lands as the developer addresses groundwater runoff in the development process.

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 will be provided.

Goal 10, policies:

Policy 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 10-acre lot size, which would allow a maximum of 18 lots. Despite steep slopes that would limit building on part of the property, new dwellings would not have to be clustered closer than a typical 10-acre rural residential area. Although Policy 1.2 would not be met because the proposal involves rezoning a new area rather than increasing the density of an existing rural residential area, the contemplated use, an equestrian development, could not reasonably be accommodated on any existing rural residential development. Increasing density would frustrate the intended use. The intended use requires sufficient lot sizes and density to allow the keeping of horses. While there are parcels that are currently zoned for 10 acre minimum, the Fuller property of 40 acres would only allow 4 parcels and the Adair property would only allow 9 parcels which both would be insufficient to allow the intended use. In order to provide arenas, equestrian trails, pastures and paddocks, a greater area is required which is not available in any of the currently available zoned areas. The proposal conforms to policy 2.1 because the property is non-irrigated farm land, and there would be no significant impact to nearby farming operations because adjacent lands are not in farm use. The area proposed to be rezoned is approximately a half-mile from Canyon View Estates, a County subdivision south of the City of Madras, but is not adjacent to existing rural residential development. The City is likely to expand to include at least the northern portion of the property which means that a ten acre minimum lot size or larger would be required. This proposal meets this policy by proposal of 10 acre minimums. Adequate services will 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' letter reflects 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.

The development of the subject parcels would require multiple connections to SE Grizzly Road. The segment of Grizzly Road serving the parcels is gravel surfaced serpentine alignment. As this portion serves only range land with very low population density, the traffic volumes are low. The addition of 18 new parcels will generate additional traffic volumes, which will require the existing road to be improved by a developer to a local improved standard. Access from the road is difficult, but not impossible. Access from the development to the improved Grizzly Road will have to be performed as a part of development.

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 approximately a half mile by road from Canyon View Estates and just over a mile from the City of Madras' city limits. Consequently, transportation energy costs will be minimal.

3. Is this Plan and Zone Map change 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 Plan map and Zone map amendment is necessary for this property to meet the economic and social needs change of this community. While this has been addressed at length, multiple times below, it is important to note here that the removal of this property from resource use designation is necessary to meet plan objectives and policies of expanding recreation and providing varied residential opportunities and fostering improve economy of the County. The objective of this zone and plan change is to clear the way for the development of an equestrian community. This kind of subdivision community needs lots of about 10 acres and sufficient lots to develop and maintain necessary amenities. There are no areas currently zoned which are large enough and have either existing lots or the capability to make a sufficient number of 10 acre or larger lots to accommodate an equestrian community. There are no other currently zoned property which could accommodate the intended use. There are no other areas which could accommodate this use without taking an exception. Parcels which could be approved under Measures 37/49 are to be restricted to less than 2 acres and none are available in the quantity to allow equestrian amenities. The only two other areas which are currently zoned RR-10 (the Fuller property and the Adair property) are too small to accommodate the intended use, are not ideally located, do not have natural buffers and do not have the combination of utilities, services, location adjacent to the National Grasslands that the subject property has. This property has a natural buffer between the property and adjoining uses. There is a large hill surrounded by gullies and public land separating this parcel from all other uses. The users of the nearby paved Grizzly and McTaggart Roads could not see the development because there is a buffer of a hill and public land. The access would be away from and shielded from the high traffic road to the

Jefferson County Transfer Station and the adjacent Humane Society of Jefferson County facility. The site has domestic water, electricity and all necessary services to presently accommodate the proposed development. It has an area sufficient to site 18 10-acre parcels which would be sufficient to develop the infrastructure of an equestrian development. It is adjacent to public lands so as to accommodate equestrian use and enjoyment. No other currently zoned parcel has all of these attributes. No other parcel (regardless of zoning) in the Madras area has these attributes. There are no other sites that can accommodate the anticipated development. The Urban Reserve Area (URA) Overlay Zone. [Ord. 0-180-08] represents a legislative determination that the Urban Reserve Area is appropriate for limited residential use (10-acre minimums), if other requirements of planning and building are met. The URA is the projected area for long term (50 year) expansion of the Urban Growth Boundary for the City of Madras. As addressed, multiple times below, the area is otherwise appropriate for a Goal 3 exception. While population growth has varied from learned predications, and the housing market is very restrained, local real estate professionals and real estate lawyers confirm that even in these poor economic times, buyers seek larger residential parcels with appropriate amenities to accommodate horse keeping and use such as would be available with the proposed change.

- B. The proposal involves changing the Zoning Map designation from EFU RL to RR-10. This application meets the requirements of the Jefferson County Zoning Ordinance Section 803.2 as follows:
1. The requested zoning designation will conform to the requested Comprehensive Plan Map designation;
 2. The amendment is consistent with other Zoning Ordinance requirements including, but not limited to, wildlife habitat, bird habitat and riparian protection standards. The property is not in a wildlife habitat, bird habitat or riparian protection area, and there are no other designated Goal 5 resources on or near the property. All applicable Zoning Ordinance requirements for rezoning property are addressed in this document.
 3. 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 since there are no other uses immediately adjoining the property, there is a buffer between the property and adjoining uses and the size of the authorized lots would mitigate against any interference with neighbors. Water and air quality will not be adversely affected due to sanitation requirements, drainage requirements and other requirements of any development.
 4. The amendment will not force a significant change in or significantly increase the cost of farming or forest practices on surrounding resource land due to the buffers and the large size of lots.
 5. 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 as are provided in the letters previously provided the Planning staff.
 6. The uses allowed in the proposed zone will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:
 - A. Changing the functional classification of an existing or planned transportation facility;

- B. 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
 - C. Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C).
- Each of these concerns have previously been addressed with the Public Works Supervisor who has advised that the only concern is the development of the Grizzly Road and accesses to the property to court road standards.
7. The proposal is to change zoning from RL to RR-10 which is within the parameters of 803.2 H. The subject property, after amendment, will be subject to the 10 acre minimum lot size.

Finding: The application includes a request to change the Comprehensive Plan Map designation from Exclusive Farm Use, Range Land (RL) to Rural Residential (RR-10.) The application meets the requirements of The Urban Reserve Area (URA) Overlay Zone. [Ord. 0-180-08] The application meets the requirements of section 802.3 of the Zoning Ordinance.

- 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 designated Goal 5 resources on or near the property. 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. Ten acre lots will not be more than can be supported by the soils on this property and there will not be an adverse impact to water quality in the area. Sewage disposal systems must meet DEQ 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. These protections will avoid any adverse impact. 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: Surrounding lands are not being used for farming or forestry due to a lack of irrigation water.

- 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.

- 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 currently accessed by Grizzly Road, and which is currently a gravel, local road. As a part of development, according to the Public works supervisor, Grizzly Road would have to be improved to the level of SE McTaggart Road, as a paved minor collector. A minor collector is defined as having typical average daily traffic of 600 to 2,500 vehicles. Each new dwelling unit generates 9.5 average daily trips according to the Trip Generation Manual. An additional 18 lots from this development would increase traffic on the local road by no more than 171 trips per day. This is consistent with the functional classification of the existing road. Jefferson County's Transportation System Plan only requires a Traffic Impact Study when traffic from proposed new development could impact the existing transportation system. The limited number of vehicles coming from this site would not impose such an impact on the existing McTaggart Road and the Grizzly Road access would have to be improved to County Road Standards as a part of development.

- 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.

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 is to rezone the property to RR-10, not EFU A-2, so these criteria are not applicable.

- 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 will be mailed to all property owners within 750 feet of the subject property and some 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. The subject property was originally classed as predominantly Class VI soils, so it has been protected as agricultural land through EFU zoning. However in the case of the subject property, the acknowledged plan has designated this property as having an Urban Reserve Overlay which legislatively acknowledges the ability to rezone this property to a 10 acre rural residential zone before other resource land. The current land is marginal in all respects, not irrigated, unable to foster any practical agricultural activity and is in the midst of non-resource use, including the Jefferson County Transfer Station, the Jefferson County Dog Pound, and a storage and mining pit of Jefferson County.

The site is traversed by an electrical main line of Central Electric Cooperative, and accompanying easements for maintenance. The site has a part of its property in a narrow strip across the Grizzly Road and a large area of the property is involved in a large gully that runs adjacent to the Grizzly Road. These lands include the higher class soils which raise the percentage of class VI or better soils to above 50%. If these areas were removed, as would be practical and logical to evaluate the agricultural potential of the property, less than 50% of the property would be class VI soils or better. While the statewide goals do not contemplate this kind of rational approach to assessment of the agricultural potential of a property, it is included to further suggest that use of these “resource lands” for non-resource use would be preferable to use of other “resource lands” with higher practical agricultural potential.

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. There are no streams or wetlands on the property, and domestic water in the area is provided by the Deschutes Valley Water District. Ten acre lots will not be more than can be supported by the soils on this property and there will not be an adverse impact to water quality in the area. Sewage disposal systems must meet DEQ 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. These protections will avoid any adverse impact. Residential use does not normally have a significant adverse impact on air quality or create significant noise.

Goal 7 requires protection from significant natural hazards. The property is not subject to any significant natural hazards. There are no known geologic faults in the county, and the earthquake hazard is considered to be moderate. The property has steep slopes along the north,

northeast, and southwest. Approximately 21 percent of the parcel contains steep slopes that will likely preclude development. The property is not in a mapped flood hazard area. There is a high wildfire hazard danger because the parcel is bordered on three sides by un-irrigated land that is vegetated with brush and scattered junipers. The steep slopes also increase the danger because fire spreads much more rapidly uphill. There is also a potential concern about adequate emergency vehicle access because of the potential road grades. However, strict compliance with building code regulations and Zoning Ordinance fire safety standards will provide adequate protection from natural hazards, in compliance with Goal 7.

Goal 8: 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 would be consistent with the adopted Transportation System Plan because it would not change the functional classification of McTaggart Road. The Grizzly road would be improved as a part of any development of the property.

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 a mile from the UGB. Goal 14 is addressed further in findings F and G.

D. The property is zoned RL. The RL zoning labels this property as resource land subject to protection as agricultural land under statewide planning Goal . Any zone change requires an exception to Goal 3 and the equivalents in the acknowledged Jefferson County Comprehensive Plan. As justified here, there is a need to change zoning of some resource land in the County, since there is no property in the Madras UGB which could accommodate the intended use of an equestrian community, there are no other currently zoned 10 acre parcels that are available to accommodate the intended use, and the County has to look to taking an exception to resource zoning on area properties to allow the intended use for the benefit of the community. When evaluating a site, the governing body must examine other available resource land to assess whether this particular parcel is better suited to the exception than any other parcel. In doing this, the County must review this and other parcels' suitability for the use, lack of conflict with

area resource use of other property, lack of conflict with area uses, lack of conflict with long term planning of the County. As addressed multiple times in this document, this parcel is the most appropriate parcel in the County for this exception because it is ideally located, has natural buffers, has the combination of utilities, services, location adjacent to the National Grasslands. This property has a natural buffer between the property and adjoining uses. Further, by being place in the Urban Reserve Area Overlay there has been a legislative determination that this property is viewed as being in the area of the expansion of the Madras UGB within the next 50 years. Any rezoning or development approval should be cognizant of the potential ultimate use of the property for urbanization, again, when justified. The contemplated development will not burden the land such that an increased density, at some potential time in the future, would not be possible. The proposed zone and comprehensive plan amendments would not conflict with the requirement of the Urban Reserve Area Overlay zone. The ability to rezone to 10 acre residential zoning (on properly supported resource exceptions) is contemplated both by the acknowledged plan (See Urban Reserve Areas, Policy 4) and the Zoning Ordinance (see Section 323).

Elements of a “reasons” exception to the goal 3 have been legislatively established for this area by the inclusion of the property within the Urban Reserve Area Overlay. An exception is required in order to rezone an agriculturally zoned property to a zoning allowing rural residential use. A “reasons” exception requires a decision body to justify why the state policy embodied in Goal 3 should not apply.

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

Finding: The applicant, as provided above, has shown the need for 10 acre lots in the Madras area. The County’s Comprehensive Plan and Zoning Ordinance have, by adoption of the Urban Reserve Overlay Zone and applying it to this property acted on hearings, studies and information establishing, legislatively, why this property is appropriate for RR-10 zoning in preparation for planned ultimate inclusion within the Madras Urban Growth. Granting of this application will meet the increased need for this type of housing as acknowledge in the Housing portion of the Comprehensive Plan which finds, “There is a high demand for rural residential parcels, but currently a low availability, particularly in proximity to Madras.”

Finding: This application shows that there are reasons consistent with OAR 660-004-022 to allow an exception to Goal 3.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

Finding: The current land is marginal in all respects, not irrigated, unable to foster any practical agricultural activity and is in the midst of non-resource use, including the Jefferson County Transfer Station, the Humane Society of Jefferson County Facilities (Animal Pound), and a storage and mining pit of Jefferson County. The site is traversed by an electrical main line of Central Electric Cooperative, and accompanying easements for maintenance. The site has a part of its property in a narrow strip across the Grizzly Road and a large area of the property is involved in a large gully that runs adjacent to the Grizzly Road. These lands include the higher class soils which raise the percentage of class VI or better soils to above 50%. If these areas were removed, as would be practical and logical to evaluate the agricultural potential of the property, less than 50% of the property would be class VI soils or better. While the statewide goals do not contemplate this kind of rational approach to assessment of the agricultural potential of a property, it is included to further suggest that use of these "resource lands" for non-resource use would be preferable to use of other "resource lands" with higher practical agricultural potential. The property is near the urban growth boundary and another two-acre subdivision; public facilities and services are presently available to the property; and there is a need in the area for the type of residential development which is contemplated by the RR-10 zoning in order to provide for the present and future projected growth and current development needs. Necessary public facilities are readily available to the property, including water, electricity, road access (with anticipated road improvements as a condition of development), fire protection and police protection, with this area being closer to the Madras urban center than other currently developed properties. While there are two other properties near the Madras UGB that are zoned RR-10, neither of these are of the size required for an equestrian development, neither have the combination of utilities, services and buffer and adjacent equestrian access to the area National Grasslands. These provide substantial reasons why an exception to Goal 3 should be approved.

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception.

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use.

Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including

resource land in existing rural centers, or by increasing the density of uses on committed lands?
If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

Finding: There are no other areas which could accommodate this use without taking an exception. The only two other areas which are currently zoned RR-10 are too small to accommodate the intended use, are not ideally located, do not have natural buffers and do not have the combination of utilities, services, location adjacent to the National Grasslands that the subject property has. This property has a natural buffer between the property and adjoining uses. There is a large hill surrounded by gullies and public land separating this parcel from all other uses. The users of the nearby paved Grizzly Road could not see the development because there is a buffer of a hill and public land. The access would be away from and shielded from the high traffic road to the Jefferson County Transfer Station and the adjacent Humane Society of Jefferson County facility. The site has domestic water, electricity and all necessary services to presently accommodate the proposed development. It has an area sufficient to site 18 10-acre parcels which would be sufficient to develop the infrastructure of an equestrian development. It is adjacent to public lands so as to accommodate equestrian use and enjoyment. No other currently zoned parcel has all of these attributes. No other parcel (regardless of zoning) in the Madras area has these attributes. There are no other sites that can accommodate the anticipated development.

(c) The long-term environmental, economic, social and energy consequences resulting from the use 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 in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to

sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Finding: While the previous criterion (b) requires a showing that existing exception areas cannot accommodate the use, criterion (c) requires that the environmental, social, economic and energy impacts resulting from rezoning the subject property will not be significantly more adverse than rezoning other resource land. The current land is marginal in all respects, not irrigated, unable to foster any practical agricultural activity and is in the midst of non-resource use, including the Jefferson County Transfer Station, the the Humane Society of Jefferson County Facilities, and a storage and mining pit of Jefferson County. The site is traversed by an electrical main line of Central Electric Cooperative, and accompanying easements for maintenance. The site has a part of its property in a narrow strip across the Grizzly Road and a large area of the property is involved in a large gully that runs adjacent to the Grizzly Road. These lands include the higher class soils which raise the percentage of class VI or better soils to above 50%. If these areas were removed, as would be practical and logical to evaluate the agricultural potential of the property, less than 50% of the property would be class VI soils or better. While the statewide goals do not contemplate this kind of rational approach to assessment of the agricultural potential of a property, it is included to further suggest that use of these "resource lands" for non-resource use would be preferable to use of other "resource lands" with higher practical agricultural potential. The property is near the urban growth boundary and a two-acre subdivision; public facilities and services are presently available to the property; and there is a need in the area for the type of residential development which is contemplated by the RR-10 zoning in order to provide for the present and future projected growth and current development needs. Necessary public facilities are readily available to the property, including water, electricity, road access (with anticipated road improvements as a condition of development), fire protection and police protection, with this area being closer to the Madras urban center than other resource properties. The EFU Range Land parcels that surround the property are not irrigated and are not being farmed. They are composed of soils that are, for the most part, not considered prime soils for farmland. There are other resource lands on the south and east sides of Madras that are zoned Range Land, are not in production, and are composed of class IV, VI and VII soils. These lands have the same access to roads, water and other public services as the subject parcel. The difference between these other parcels and the subject parcel is that the subject parcel is buffered by topography, making this site the preferable location for RR-10 zoning. There would be less adverse impact for rezoning this property. The environmental, social, economic and energy impacts of allowing rural residential development on these other lands is more than or, in any event, not less than the impacts of residential development on the subject property.

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Finding: The proposed use is a residential subdivision. This is similar to the existing development in Canyon View Estates that is approximately one-half mile away and is zoned RR. The County landfill, the Humane Society facility, topography and other range land properties separate the proposed development from this rural subdivision. The subject property is bordered on the north by a large gully and the Grizzly Road, south, and east by public lands and large parcels that are zoned EFU. These lands are not irrigated and not farmed. Any development would be required to maintain water quality and drainage. The proposed development will not have adverse impact if water quality and drainage impacts are addressed.

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

For rural residential areas designated after the effective date of this rule, the affected county shall ... (A) Require that any new lot or parcel have an area of at least ten acres, or

Finding: In compliance with this rule, the proposal is to rezone the property to RR-10, with a ten acre minimum lot size. No exception is required to comply with Goal 14 based on the requested lot sizes.

The reasons that may be used to justify a statewide planning goal exception to allow uses or development that would not otherwise be allowed by applicable statewide planning goals is provided by Oregon Administrative rule OAR 660-004-0020 and 660-004-0022. OAR 660-004-022 sets out detailed requirements for applying the first of the Goal 2 Part II(c) criteria, the Goal 2 Part II(c)(1) “reasons” criterion. The permissible reasons that may be relied on to approve a reasons exception depend on the “use” or “development” that the reasons exception is being approved to allow. ORS 660-004-022, subsections (2)-(11) identify 10 different categories of uses or development and describe the reasons or analysis that may be used to authorize each category of uses or development.² ORS 660-004-022(1) applies when adopting a reasons

² OAR 660-004-0022 provides in relevant part:

“An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

“(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

“(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

“(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

“(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

“(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial,

exception for “uses not specifically provided for in OAR 660-004-0022(2) through (12). This application applies OAR 660-004-0022(2), because the exception is to allow rural residential development.

The proposed Zoning and Comprehensive Plan amendment to change the designation of this site from RL Agriculture to RR-10 Rural Residential is justified by the particular circumstances that are unique to the property. Under OAR 660-004-0022(2), the reasons exception may not be based on “market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands.”

Finding:

The plan and the facts of this application provide and establish:

1. Bureau of Land Management and Crooked River National Grassland are available for equestrian activities, mountain biking, and other outdoor activities. (Page 48)
2. There likely are not enough developed park facilities in the County to meet the needs for organized sports like baseball and soccer. However, it is more appropriate for **these types of developed recreational facilities** to be provided inside city limits where the majority of the participants live, rather than in the unincorporated areas of the County. This recognition specifically designates these types of recreation to be within the UGB. Equestrian developments and activities are not included within the types of recreation that should be within the UGB. (Page 49)
3. Recreational Needs Policy 1 provides:

Policy 1: Recognize the importance of recreation to both County residents and visitors.

 - 1.1 ***Private recreational development, including a variety of overnight accommodations, should be permitted in locations that will not conflict with surrounding land uses and where adequate services are available.***
 - 1.2 ***Private development should not be permitted if it would block access to or otherwise have a significant adverse impact on public open space lands.***

This proposal meets these policies. It is one of a variety of overnight accommodations located at a place which will not conflict with surrounding land uses and where adequate services are available. This private development, while being located on property adjacent to Federal recreational land to access them, would not conflict with the use by other members of the public.
4. Recreational Needs Policy 3 is instructive and although it discusses development in the National Forest, it is instructive, by analogy, as to the proper approach to

commercial, or other economic activity in the area.”

permitting development to maximize the recreational opportunities by accessing the National Grass lands. It provides:

Policy 3: Recognize that the Deschutes National Forest and private lands within the National Forest boundary provide invaluable recreational opportunities for both County residents and visitors.

3.2 Recreational and resort development on private lands within the National Forest boundary should continue to be allowed when the development will be in harmony with the natural environment and will not have an adverse impact on forest lands, rivers and streams or wildlife habitat.

This development is totally unique in that it currently has all services necessary to permit residential development. It is near non-resource uses but is buffered by topography and man made buffers. It is located on the edge of the National Grasslands at a location which would be ideal for equestrian use and it is large enough to provide for necessary amenities and opportunities for an equestrian development. No other property will foster this economic asset for the County.

5. This zoning and plan change amendment will improve the economy of Jefferson County. In the current economical downturn, agriculture has been one of the hardest hit industries. Jefferson County governmental entities are suffering, in part, due to the downturn of the value of real property, the downturn in personal finances and the lack of diversity in opportunities. The Comprehensive Plan notes that. ***“In addition to agriculture and other resource-based employment, tourism and recreational activities are likely to be the greatest contributors to the economy from unincorporated lands.”*** (Jefferson County Comprehensive Plan at page The Three Rivers Recreation Area Waterfront zone, Camp Sherman Vacation Rentals zone, Camp Sherman Rural Center zone, and Blue Lake zone were specifically designed to recognize existing tourism-related businesses and allow limited new development that is in harmony with the surrounding area and carrying capacity of the land. Tourism-related businesses have also been developed in Crooked River Ranch. The development of destination resorts could also bring new tourism dollars to the County.

CONCLUSION: The application for Zone Change should be approved.

1. There is no other property within the Madras Urban Growth Boundary which could permit the intended use
2. There is no other property currently zoned RR-10 which would accommodate the intended use.
3. The housing contemplated by this application is not otherwise available and the Madras area zoning lacks this housing type and diversity.
4. The proposed zone and plan map change will allow a development which will meet economic goals of the Comprehensive Plan
5. The change of zoning on this particular property would have no greater impact on the resource land than development of any other property (and in fact is the only

- property in the Madras area that has all of the necessary attributes to foster the intended development).
6. The intended zone change and intended equestrian development is ideally suited to this property because this property is large enough to accommodate the use and support required amenities, the property has all services necessary to permit residential development, the property is near non-resource uses but is buffered by topography and man made buffers and the property is located on the edge of the National Grasslands at a location which would be ideal for equestrian use
 7. The zone and plan map change of this property would not conflict with long range planning for the Madras UGB in that the property is predominately within the Urban Reserve Overlay Zone and the 10 acre minimum is within the long range planning restrictions for the Urban Reserve Overlay Zone. With this overlay zoning and Comprehensive Plan provisions and the information provided herein and in exhibits, the proposal meets the requirements for an exceptions to Statewide Planning Goals 3 and 14 in OAR 660-004-0022 .
 8. The application complies with OAR 660-004-0020(2)(b) because there are no other existing exception areas that could reasonable accommodate the use by increasing the density.
 9. The application complies with the requirements in OAR 660-014-0040 in that the proposed zoning would authorize lots of no smaller than ten acres in size.

DECISION

The application for a Comprehensive Plan Map designation from Range Land to Rural Land and change the Zoning Map designation from Range Land RL to Rural Residential RR- 10 is approved.

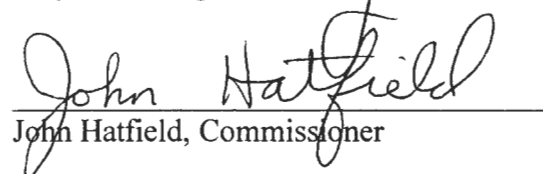
BOARD OF COMMISSIONERS:



Mike Ahern, Commission Chair



Wayne Fording, Commissioner



John Hatfield, Commissioner

Dated this 26th day of October, 2011.

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

**IN THE MATTER OF AN AMENDMENT)
TO THE JEFFERSON COUNTY)
COMPREHENSIVE PLAN MAP AND)
ZONING MAP FOR PROPERTY)
DESCRIBED AS T 11S R 14E SECTION 18)
TAX LOT 101 AND T 11S R 14E)
SECTION 19 TAX LOTS 1091 AND 1092)**

Ordinance No. 0-162-11

WHEREAS, James and Laura Smith own approximately 189.5 acres of land designated resource land and zoned rangeland and that property is located at 1522 SE Grizzly Road, east of the Jefferson County Transfer Station and consists of tax lot 101 in T11S, R14E, Section 18 and tax lots 1091 and 1092 in T11S, R14E, Section 19; and

WHEREAS, the owner submitted an application to for a Comprehensive Plan Map Amendment to re-designate 189.5 acres from Range Land to Rural land; and

WHEREAS, the owner submitted an application for a Zone Map Amendment from Exclusive Farm Use-Rangeland (RL) to Range Land (RR-10); and

WHEREAS, at a public meeting on June 13, 20120, the Jefferson County Planning Commission deliberated the proposal. The Jefferson County Planning Commission, having conducted a public hearing, reviewed the staff report, accepted testimony and deliberated on the evidence presented therein, was unable to reach a recommendation on the application. A motion to approve was made and seconded. However, there were only four commissioners present that were eligible to vote and the vote was two in favor of approval and two against, as such, the motion failed; and

WHEREAS, the Jefferson County Board of Commissioners conducted a public hearing on September 28, 2011 and accepted testimony on the application. At the conclusion of the hearing, the Board closed the record and deliberated on the application. After considering and testimony, the Board voted unanimously to APPROVE the application;

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

1. Adoption of Comprehensive Plan Map Amendment

The Comprehensive Plan Map is amended to change the Plan Designation of Property described on Assessor’s Map as of tax lot 101 in T11S, R14E, Section 18 and tax lcts 1091 and 1092 in T11S, R14E, Section 19 and legally described as:

Parcels 1 and 2 Partition Plat No. 1996-06, recorded June 11 1996, in Plats MF#962467, Jefferson County Oregon

from Range Land to Rural Land. Exhibit A is the Comprehensive Plan Map amendment adopted by this ordinance.

2. **Adoption of Zoning Map Amendment**

The Zoning Map is amended to change the Zoning of property described as Assessors Map as of tax lot 101 in T11S, R14E, Section 18 and tax lots 1091 and 1092 in T11S, R14E, Section 19 and legally described as:

Parcels 1 and 2 Partition Plat No. 1996-06, recorded June 11 1996, in Plats MF#962467, Jefferson County Oregon

from Rangeland (RL) to Rural Residential 10 (RR-10). Exhibit B is the Zoning Map amendment adopted by this ordinance.

3. **Adoption of Findings**

The Comprehensive Plan Map and Zoning Map Amendments are sufficiently compliant 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 document attached hereto as Exhibit C.

4. **Severability**

The provisions of this ordinance are severable. If any section, subsection, sentence, clause or phrase of this ordinance or any exhibit thereto is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or exhibits thereto.

5. **Effective Date**

These amendments being necessary for immediate implementation, an emergency is declared to exist, and the specified amendments shall therefore take place and be effective on October 26, 2011.

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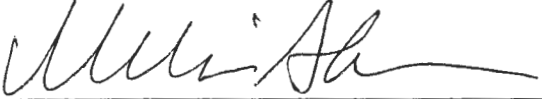
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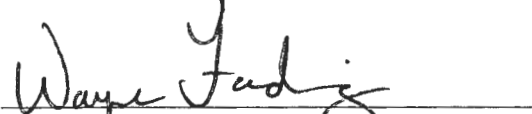
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Dated this 26th day of October, 2011.

BOARD OF COMMISSIONERS



Mike Ahern, Commission Chair



Wayne Fording, Commissioner



John Hatfield, Commissioner

Attest:

Barbara Andresen

Appeal Information

Planning Casefile #10-PA-02

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: 10/26/11

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 C; Ordinance No.

BEFORE THE JEFFERSON COUNTY BOARD OF COMMISSIONERS
FINDINGS AND DECISION
CASEFILE 10-PA-02

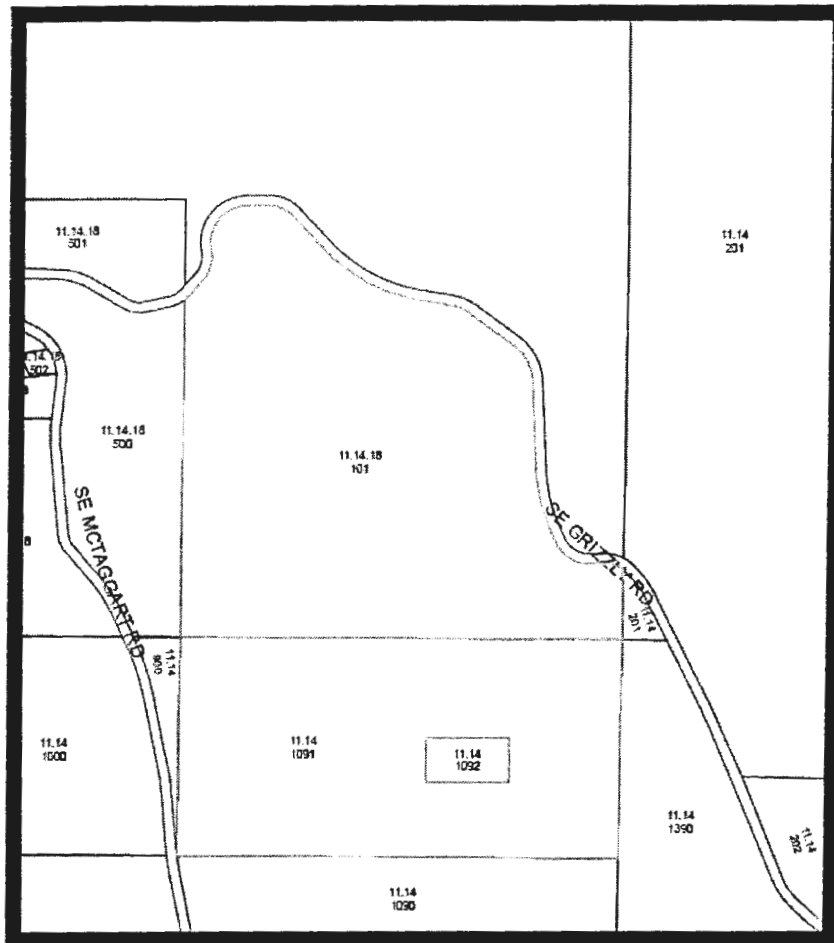
Applicant/Owner: James C. and Laura M. Smith
P.O. Box I
Madras, OR 97741

Agent:	Paul Sumner	Donald Reeder
	P.O Box 16	205 SE 5th St.
	Madras, OR 97741	Madras, OR 97741

Request: A request to change the Comprehensive Plan Map designation from Range Land to Rural Land and change the Zoning Map designation from Range Land RL to Rural Residential RR- 10 for property located partially in the Madras Urban Reserve Area.

Tax Lots: T11S, R14E, Section 18, Tax Lot 101; T11S, R14E, Section 19, Tax Lots 1091 and 1092

Location: The property is located at 1522 SE Grizzly Rd., east of the Jefferson County Refuse Transfer Station.



Location

Planning Designation: Range Land

Zoning: Range Land with an overlay of the Madras Urban Reserve Area over the majority of the parcel

- Soils:** According to the NRCS Soil Survey, the property is composed of the following soils:
- A. 57% 87B Madras loam, 3 – 8% slope, agricultural capability class IVs if not irrigated, IIIs if irrigated
 - B. 27% 24C Caphealy and Reuter, 8 – 15% slopes, agricultural capability class VIe if not irrigated, IVe if irrigated.
 - C. 14% 80D and 80E Licksillet and Redcliff very gravelly loams, 15 – 30% slopes, agricultural capability class VII and VI respectively

- D. 2% 45A ERA sandy loam cobbly substratum, 0 – 3% slopes, agricultural capability class VIs if not irrigated, and IIIc if irrigated.

These soils were modified by a certified Soil Investigation produced by Dr. Joel Norgren which shows an increase in the area of shallow and very gravelly soils from 28% to 64%, and a decrease in the area of moderately deep soils from 73% to 37%. Deep alluvial soils increased from 2% to 9%. The predominant soils are Lickskillet, Caphealy, Reuter and Cullius – Class VI and VII soils. Regarding the NRCS Soil Survey, the 45A and 87B soils are classified as prime if irrigated. The property is not currently being irrigated, and though it is within the North Unit Irrigation District's boundaries, a letter from NUID indicates that it would be nearly impossible to get irrigation water to the property. Without being irrigated, this property is not considered high-value farmland.

The agricultural capability of the ground is further affected by locations of County Roads, historic powerline easements and non-agricultural uses of the property surrounding the parcel.

1. The soil survey prepared by Joel Norgren, PhD., ARCPACS #19602, CPSSc/SCS demonstrates that the NRCS classification was faulty. This study is contained on **Appendix A**.¹ On **Appendix B**, a key and an map view of the property with the findings of Dr. Norgren is provided by the applicant. On **Appendix C**, the findings have been superimposed on an aerial view of the property by applicant for ease of reference.

2. A summary of these findings and additional information about the property is contained in tabular format on **Appendix D**.

3. **Appendix E** provides a map showing that a long, relatively narrow area of the property is separated from the remainder of the property by a gully which carries seasonal run off (often times, excessive seasonal run off,) and the area on the opposite side of the stream way center line which is in the stream way banks and is also unavailable for agriculture. This area which by the map is about 23.2 acres is either separated by the stream way in a narrow chunk or is unavailable for agricultural purposes by reason of the steep slopes erosive and changing bank and the uncertainty of change resulting from seasonal drainage. Also removed in **Appendix D** is the area of a public road on the Southeast side of the property. Agriculture would be unavailable at this site. No reduction from agricultural capability was assigned in **Appendix D** to the sloughing bank area on the Southwest side of the property and no limitation on agricultural capability was assigned to the fact that there is an irrevocable commitment of 2.0 acres to the non-agricultural, residential use in Tax Lot 1092 and there are intersecting utility easements crossing the property including one of twenty feet for approximately 3,500 feet or an area of approximately 1.65 acres removed from agricultural usage (See April 28, 1983 deed records at instrument No. 147456 and recorded plat of June 11, 1996, Partition Plat No: 1996-06 recorded as MF No. 962467.) These exceptions to agricultural uses would further

¹ The Appendices are hereby specifically incorporated by reference.

remove this portion of the property from agriculturally capable resource property, but were not included in the analysis in **Appendix D**.

4. **Appendix F** provides photographs of the area adjoining the stream way and the property which is adversely impacted, for agricultural purposes on the West side of the property adjacent to McTaggart road and the County landfill.
5. Collectively, the majority of the land is unable to accommodate agricultural purposes. Further, it is not necessary to be preserved in order to accommodate adjoining agricultural purposes since the majority of the surrounding land is also of class VII capability or higher. See **Appendix G**.
6. Prior evaluations of the property by Jefferson County Planning and Building in "Findings and Decision, Land Division MP 95-18 at Section B. 3." found that the parcel lacked agricultural capability. This "Findings and Decision found:

"Capability class and subclass: Approximately 80% or 152 acres is made up of Lickskillet Redcliff Complex, 15-30% slopes; the remaining 20% or 28 acres is Madras loam 3-8% slopes."

See Appendix H.

7. This finding of the County Staff (in **Appendix H**) was reasonable since the identity and description of the Lickskillet Redcliff Complex and that of the Caphealy-Reuter soils are nearly identical. In questioning Dr. Norgren, the soil scientist, about this, he replied that the soils are often time called one classification when originally reviewed and this classification sticks unless there are good reasons to change it. The applicant believes that evaluation of the true capability of the soil on initial investigation would yield a different result. To further explain this, on the Applicants' side of the Grizzly Road at numerous locations, the NRCS declares that the soils have class VI capability. On the other side of the Grizzly Road, NRCS assigns the soils a Class VII capability. There is no apparent difference in the soils. By the rules of soil classification, the class VI soils will keep that classification unless proven manifest error. When the Lickskillet Redcliff Complex (Class VII) and the Caphealy-Reuter (Class VI) soils have nearly identical descriptions, such a change is unlikely.

8. This would not be the first time that this land was declared non-resource. Historically, this is one of the lands that the Federal government, in the 1930's declared to be "marginal."

Lot Legality: Tax lot 11-14-18-101 is not a legal parcel in and of itself. It was created as part of a boundary line adjustment in 1996 (BA 95-04) which transferred property from 11-14-18-100 to

11-14-19-1091. Because of mapping limitations, this lot cannot be shown on one tax map, hence there are two lot numbers for the one tax lot. Tax lot 11-14-19-1092 was created by partition plat #96-MP-06 in 1996. Therefore, both lots were legally created.

APPLICABLE STANDARDS:

Goal 14, Policy 4 of the January 27, 2010 Amended 2007 Jefferson County Comprehensive Plan; Chapter 8 of the July 14, 2010 Amended 2007 Jefferson County Zoning Ordinance (JCZO); OAR 660-004, 660-014 and 660-015.

FINDINGS OF FACT:

- A. A Comprehensive Plan Map amendment is required to change the designation of the property from Exclusive Farm Use to Rural Land. Since the application involves two lots under the same ownership, it is a quasi-judicial land use decision. 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 has been acknowledged. Consequently, the statewide planning Goals are not directly applicable except as referenced in the Comprehensive Plan. 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:

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 it is not irrigated. The appropriate zoning for this property would seem to be Exclusive Farm Use A-2, however it is already designated and zoned as Range Land.

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. According to the investigation by the County's Engineer certain parts of the property may have limited ability to locate standard septic systems. A developer, can, however use capping fill systems in areas where slopes do not exceed 12%. In addition, much of the soils on the property are too thin to support a standard or capping fill system. Other areas may be capable of supporting a sand filter or ATT system if with DEQ approved absorption tests. Septic system requirements will dictate some lot locations ensuring that sewage treatment is feasible and protects groundwater quality.

The property has steep slopes dropping off to Grizzly road to the north along the property line. Grizzly Road is a County road running down the bottom of a V shaped bottom draw draining a significant watershed. The drainage is subject to periodic high flows. The additional runoff generated by development on this site may be difficult to retain on site, which is required under current regulations. Properties to the north, east and south are undeveloped, zoned Range Land, and not in agricultural use. Property to the west is owned by Jefferson County and is used as a transfer station, landfill, and animal control facility. Due to the lack of intensive agricultural use on adjacent lands, rural residential development on the subject property would have minimal impact to the surrounding lands as the developer addresses groundwater runoff in the development process.

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 will be provided.

Goal 10, policies:

Policy 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 10-acre lot size, which would allow a maximum of 18 lots. Despite steep slopes that would limit building on part of the property, new dwellings would not have to be clustered closer than a typical 10-acre rural residential area. Although Policy 1.2 would not be met because the proposal involves rezoning a new area rather than increasing the density of an existing rural residential area, the contemplated use, an equestrian development, could not reasonably be accommodated on any existing rural residential development. Increasing density would frustrate the intended use. The intended use requires sufficient lot sizes and density to allow the keeping of horses. While there are parcels that are currently zoned for 10 acre minimum, the Fuller property of 40 acres would only allow 4 parcels and the Adair property would only allow 9 parcels which both would be insufficient to allow the intended use. In order to provide arenas, equestrian trails, pastures and paddocks, a greater area is required which is not available in any of the currently available zoned areas. The proposal conforms to policy 2.1 because the property is non-irrigated farm land, and there would be no significant impact to nearby farming operations because adjacent lands are not in farm use. The area proposed to be rezoned is approximately a half-mile from Canyon View Estates, a County subdivision south of the City of Madras, but is not adjacent to existing rural residential development. The City is likely to expand to include at least the northern portion of the property which means that a ten acre minimum lot size or larger would be required. This proposal meets this policy by proposal of 10 acre minimums. Adequate services will 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' letter reflects 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.

The development of the subject parcels would require multiple connections to SE Grizzly Road. The segment of Grizzly Road serving the parcels is gravel surfaced serpentine alignment. As this portion serves only range land with very low population density, the traffic volumes are low. The addition of 18 new parcels will generate additional traffic volumes, which will require the existing road to be improved by a developer to a local improved standard. Access from the road is difficult, but not impossible. Access from the development to the improved Grizzly Road will have to be performed as a part of development.

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 approximately a half mile by road from Canyon View Estates and just over a mile from the City of Madras' city limits. Consequently, transportation energy costs will be minimal.

3. Is this Plan and Zone Map change 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 Plan map and Zone map amendment is necessary for this property to meet the economic and social needs change of this community. While this has been addressed at length, multiple times below, it is important to note here that the removal of this property from resource use designation is necessary to meet plan objectives and policies of expanding recreation and providing varied residential opportunities and fostering improve economy of the County. The objective of this zone and plan change is to clear the way for the development of an equestrian community. This kind of subdivision community needs lots of about 10 acres and sufficient lots to develop and maintain necessary amenities. There are no areas currently zoned which are large enough and have either existing lots or the capability to make a sufficient number of 10 acre or larger lots to accommodate an equestrian community. There are no other currently zoned property which could accommodate the intended use. There are no other areas which could accommodate this use without taking an exception. Parcels which could be approved under Measures 37/49 are to be restricted to less than 2 acres and none are available in the quantity to allow equestrian amenities. The only two other areas which are currently zoned RR-10 (the Fuller property and the Adair property) are too small to accommodate the intended use, are not ideally located, do not have natural buffers and do not have the combination of utilities, services, location adjacent to the National Grasslands that the subject property has. This property has a natural buffer between the property and adjoining uses. There is a large hill surrounded by gullies and public land separating this parcel from all other uses. The users of the nearby paved Grizzly and McTaggart Roads could not see the development because there is a buffer of a hill and public land. The access would be away from and shielded from the high traffic road to the

Jefferson County Transfer Station and the adjacent Humane Society of Jefferson County facility. The site has domestic water, electricity and all necessary services to presently accommodate the proposed development. It has an area sufficient to site 18 10-acre parcels which would be sufficient to develop the infrastructure of an equestrian development. It is adjacent to public lands so as to accommodate equestrian use and enjoyment. No other currently zoned parcel has all of these attributes. No other parcel (regardless of zoning) in the Madras area has these attributes. There are no other sites that can accommodate the anticipated development. The Urban Reserve Area (URA) Overlay Zone. [Ord. 0-180-08] represents a legislative determination that the Urban Reserve Area is appropriate for limited residential use (10-acre minimums), if other requirements of planning and building are met. The URA is the projected area for long term (50 year) expansion of the Urban Growth Boundary for the City of Madras. As addressed, multiple times below, the area is otherwise appropriate for a Goal 3 exception. While population growth has varied from learned predications, and the housing market is very restrained, local real estate professionals and real estate lawyers confirm that even in these poor economic times, buyers seek larger residential parcels with appropriate amenities to accommodate horse keeping and use such as would be available with the proposed change.

- B. The proposal involves changing the Zoning Map designation from EFU RL to RR-10. This application meets the requirements of the Jefferson County Zoning Ordinance Section 803.2 as follows:
1. The requested zoning designation will conform to the requested Comprehensive Plan Map designation;
 2. The amendment is consistent with other Zoning Ordinance requirements including, but not limited to, wildlife habitat, bird habitat and riparian protection standards. The property is not in a wildlife habitat, bird habitat or riparian protection area, and there are no other designated Goal 5 resources on or near the property. All applicable Zoning Ordinance requirements for rezoning property are addressed in this document.
 3. 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 since there are no other uses immediately adjoining the property, there is a buffer between the property and adjoining uses and the size of the authorized lots would mitigate against any interference with neighbors. Water and air quality will not be adversely affected due to sanitation requirements, drainage requirements and other requirements of any development.
 4. The amendment will not force a significant change in or significantly increase the cost of farming or forest practices on surrounding resource land due to the buffers and the large size of lots.
 5. 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 as are provided in the letters previously provided the Planning staff.
 6. The uses allowed in the proposed zone will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:
 - A. Changing the functional classification of an existing or planned transportation facility;

- B. 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
 - C. Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C).
- Each of these concerns have previously been addressed with the Public Works Supervisor who has advised that the only concern is the development of the Grizzly Road and accesses to the property to court road standards.
- 7. The proposal is to change zoning from RL to RR-10 which is within the parameters of 803.2 H. The subject property, after amendment, will be subject to the 10 acre minimum lot size.

Finding: The application includes a request to change the Comprehensive Plan Map designation from Exclusive Farm Use, Range Land (RL) to Rural Residential (RR-10.) The application meets the requirements of The Urban Reserve Area (URA) Overlay Zone. [Ord. 0-180-08] The application meets the requirements of section 802.3 of the Zoning Ordinance.

- 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 designated Goal 5 resources on or near the property. 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. Ten acre lots will not be more than can be supported by the soils on this property and there will not be an adverse impact to water quality in the area. Sewage disposal systems must meet DEQ 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. These protections will avoid any adverse impact. 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: Surrounding lands are not being used for farming or forestry due to a lack of irrigation water.

- 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.

- 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 currently accessed by Grizzly Road, and which is currently a gravel, local road. As a part of development, according to the Public works supervisor, Grizzly Road would have to be improved to the level of SE McTaggart Road, as a paved minor collector. A minor collector is defined as having typical average daily traffic of 600 to 2,500 vehicles. Each new dwelling unit generates 9.5 average daily trips according to the Trip Generation Manual. An additional 18 lots from this development would increase traffic on the local road by no more than 171 trips per day. This is consistent with the functional classification of the existing road. Jefferson County's Transportation System Plan only requires a Traffic Impact Study when traffic from proposed new development could impact the existing transportation system. The limited number of vehicles coming from this site would not impose such an impact on the existing McTaggart Road and the Grizzly Road access would have to be improved to County Road Standards as a part of development.

- 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.

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 is to rezone the property to RR-10, not EFU A-2, so these criteria are not applicable.

- 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 will be mailed to all property owners within 750 feet of the subject property and some 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. The subject property was originally classed as predominantly Class VI soils, so it has been protected as agricultural land through EFU zoning. However in the case of the subject property, the acknowledged plan has designated this property as having an Urban Reserve Overlay which legislatively acknowledges the ability to rezone this property to a 10 acre rural residential zone before other resource land. The current land is marginal in all respects, not irrigated, unable to foster any practical agricultural activity and is in the midst of non-resource use, including the Jefferson County Transfer Station, the Jefferson County Dog Pound, and a storage and mining pit of Jefferson County.

The site is traversed by an electrical main line of Central Electric Cooperative, and accompanying easements for maintenance. The site has a part of its property in a narrow strip across the Grizzly Road and a large area of the property is involved in a large gully that runs adjacent to the Grizzly Road. These lands include the higher class soils which raise the percentage of class VI or better soils to above 50%. If these areas were removed, as would be practical and logical to evaluate the agricultural potential of the property, less than 50% of the property would be class VI soils or better. While the statewide goals do not contemplate this kind of rational approach to assessment of the agricultural potential of a property, it is included to further suggest that use of these “resource lands” for non-resource use would be preferable to use of other “resource lands” with higher practical agricultural potential.

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. There are no streams or wetlands on the property, and domestic water in the area is provided by the Deschutes Valley Water District. Ten acre lots will not be more than can be supported by the soils on this property and there will not be an adverse impact to water quality in the area. Sewage disposal systems must meet DEQ 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. These protections will avoid any adverse impact. Residential use does not normally have a significant adverse impact on air quality or create significant noise.

Goal 7 requires protection from significant natural hazards. The property is not subject to any significant natural hazards. There are no known geologic faults in the county, and the earthquake hazard is considered to be moderate. The property has steep slopes along the north,

northeast, and southwest. Approximately 21 percent of the parcel contains steep slopes that will likely preclude development. The property is not in a mapped flood hazard area. There is a high wildfire hazard danger because the parcel is bordered on three sides by un-irrigated land that is vegetated with brush and scattered junipers. The steep slopes also increase the danger because fire spreads much more rapidly uphill. There is also a potential concern about adequate emergency vehicle access because of the potential road grades. However, strict compliance with building code regulations and Zoning Ordinance fire safety standards will provide adequate protection from natural hazards, in compliance with Goal 7.

Goal 8: 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 would be consistent with the adopted Transportation System Plan because it would not change the functional classification of McTaggart Road. The Grizzly road would be improved as a part of any development of the property.

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 a mile from the UGB. Goal 14 is addressed further in findings F and G.

D. The property is zoned RL. The RL zoning labels this property as resource land subject to protection as agricultural land under statewide planning Goal . Any zone change requires an exception to Goal 3 and the equivalents in the acknowledged Jefferson County Comprehensive Plan. As justified here, there is a need to change zoning of some resource land in the County, since there is no property in the Madras UGB which could accommodate the intended use of an equestrian community, there are no other currently zoned 10 acre parcels that are available to accommodate the intended use, and the County has to look to taking an exception to resource zoning on area properties to allow the intended use for the benefit of the community. When evaluating a site, the governing body must examine other available resource land to assess whether this particular parcel is better suited to the exception than any other parcel. In doing this, the County must review this and other parcels' suitability for the use, lack of conflict with

area resource use of other property, lack of conflict with area uses, lack of conflict with long term planning of the County. As addressed multiple times in this document, this parcel is the most appropriate parcel in the County for this exception because it is ideally located, has natural buffers, has the combination of utilities, services, location adjacent to the National Grasslands. This property has a natural buffer between the property and adjoining uses. Further, by being place in the Urban Reserve Area Overlay there has been a legislative determination that this property is viewed as being in the area of the expansion of the Madras UGB within the next 50 years. Any rezoning or development approval should be cognizant of the potential ultimate use of the property for urbanization, again, when justified. The contemplated development will not burden the land such that an increased density, at some potential time in the future, would not be possible. The proposed zone and comprehensive plan amendments would not conflict with the requirement of the Urban Reserve Area Overlay zone. The ability to rezone to 10 acre residential zoning (on properly supported resource exceptions) is contemplated both by the acknowledged plan (See Urban Reserve Areas, Policy 4) and the Zoning Ordinance (see Section 323).

Elements of a “reasons” exception to the goal 3 have been legislatively established for this area by the inclusion of the property within the Urban Reserve Area Overlay. An exception is required in order to rezone an agriculturally zoned property to a zoning allowing rural residential use. A “reasons” exception requires a decision body to justify why the state policy embodied in Goal 3 should not apply.

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

Finding: The applicant, as provided above, has shown the need for 10 acre lots in the Madras area. The County’s Comprehensive Plan and Zoning Ordinance have, by adoption of the Urban Reserve Overlay Zone and applying it to this property acted on hearings, studies and information establishing, legislatively, why this property is appropriate for RR-10 zoning in preparation for planned ultimate inclusion within the Madras Urban Growth. Granting of this application will meet the increased need for this type of housing as acknowledge in the Housing portion of the Comprehensive Plan which finds, “There is a high demand for rural residential parcels, but currently a low availability, particularly in proximity to Madras.”

Finding: This application shows that there are reasons consistent with OAR 660-004-022 to allow an exception to Goal 3.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

Finding: The current land is marginal in all respects, not irrigated, unable to foster any practical agricultural activity and is in the midst of non-resource use, including the Jefferson County Transfer Station, the Humane Society of Jefferson County Facilities (Animal Pound), and a storage and mining pit of Jefferson County. The site is traversed by an electrical main line of Central Electric Cooperative, and accompanying easements for maintenance. The site has a part of its property in a narrow strip across the Grizzly Road and a large area of the property is involved in a large gully that runs adjacent to the Grizzly Road. These lands include the higher class soils which raise the percentage of class VI or better soils to above 50%. If these areas were removed, as would be practical and logical to evaluate the agricultural potential of the property, less than 50% of the property would be class VI soils or better. While the statewide goals do not contemplate this kind of rational approach to assessment of the agricultural potential of a property, it is included to further suggest that use of these "resource lands" for non-resource use would be preferable to use of other "resource lands" with higher practical agricultural potential. The property is near the urban growth boundary and another two-acre subdivision; public facilities and services are presently available to the property; and there is a need in the area for the type of residential development which is contemplated by the RR-10 zoning in order to provide for the present and future projected growth and current development needs. Necessary public facilities are readily available to the property, including water, electricity, road access (with anticipated road improvements as a condition of development), fire protection and police protection, with this area being closer to the Madras urban center than other currently developed properties. While there are two other properties near the Madras UGB that are zoned RR-10, neither of these are of the size required for an equestrian development, neither have the combination of utilities, services and buffer and adjacent equestrian access to the area National Grasslands. These provide substantial reasons why an exception to Goal 3 should be approved.

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception.

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use.

Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including

resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

Finding: There are no other areas which could accommodate this use without taking an exception. The only two other areas which are currently zoned RR-10 are too small to accommodate the intended use, are not ideally located, do not have natural buffers and do not have the combination of utilities, services, location adjacent to the National Grasslands that the subject property has. This property has a natural buffer between the property and adjoining uses. There is a large hill surrounded by gullies and public land separating this parcel from all other uses. The users of the nearby paved Grizzly Road could not see the development because there is a buffer of a hill and public land. The access would be away from and shielded from the high traffic road to the Jefferson County Transfer Station and the adjacent Humane Society of Jefferson County facility. The site has domestic water, electricity and all necessary services to presently accommodate the proposed development. It has an area sufficient to site 18 10-acre parcels which would be sufficient to develop the infrastructure of an equestrian development. It is adjacent to public lands so as to accommodate equestrian use and enjoyment. No other currently zoned parcel has all of these attributes. No other parcel (regardless of zoning) in the Madras area has these attributes. There are no other sites that can accommodate the anticipated development.

(c) The long-term environmental, economic, social and energy consequences resulting from the use 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 in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to

sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Finding: While the previous criterion (b) requires a showing that existing exception areas cannot accommodate the use, criterion (c) requires that the environmental, social, economic and energy impacts resulting from rezoning the subject property will not be significantly more adverse than rezoning other resource land. The current land is marginal in all respects, not irrigated, unable to foster any practical agricultural activity and is in the midst of non-resource use, including the Jefferson County Transfer Station, the the Humane Society of Jefferson County Facilities, and a storage and mining pit of Jefferson County. The site is traversed by an electrical main line of Central Electric Cooperative, and accompanying easements for maintenance. The site has a part of its property in a narrow strip across the Grizzly Road and a large area of the property is involved in a large gully that runs adjacent to the Grizzly Road. These lands include the higher class soils which raise the percentage of class VI or better soils to above 50%. If these areas were removed, as would be practical and logical to evaluate the agricultural potential of the property, less than 50% of the property would be class VI soils or better. While the statewide goals do not contemplate this kind of rational approach to assessment of the agricultural potential of a property, it is included to further suggest that use of these "resource lands" for non-resource use would be preferable to use of other "resource lands" with higher practical agricultural potential. The property is near the urban growth boundary and a two-acre subdivision; public facilities and services are presently available to the property; and there is a need in the area for the type of residential development which is contemplated by the RR-10 zoning in order to provide for the present and future projected growth and current development needs. Necessary public facilities are readily available to the property, including water, electricity, road access (with anticipated road improvements as a condition of development), fire protection and police protection, with this area being closer to the Madras urban center than other resource properties. The EFU Range Land parcels that surround the property are not irrigated and are not being farmed. They are composed of soils that are, for the most part, not considered prime soils for farmland. There are other resource lands on the south and east sides of Madras that are zoned Range Land, are not in production, and are composed of class IV, VI and VII soils. These lands have the same access to roads, water and other public services as the subject parcel. The difference between these other parcels and the subject parcel is that the subject parcel is buffered by topography, making this site the preferable location for RR-10 zoning. There would be less adverse impact for rezoning this property. The environmental, social, economic and energy impacts of allowing rural residential development on these other lands is more than or, in any event, not less than the impacts of residential development on the subject property.

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Finding: The proposed use is a residential subdivision. This is similar to the existing development in Canyon View Estates that is approximately one-half mile away and is zoned RR. The County landfill, the Humane Society facility, topography and other range land properties separate the proposed development from this rural subdivision. The subject property is bordered on the north by a large gully and the Grizzly Road, south, and east by public lands and large parcels that are zoned EFU. These lands are not irrigated and not farmed. Any development would be required to maintain water quality and drainage. The proposed development will not have adverse impact if water quality and drainage impacts are addressed.

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

For rural residential areas designated after the effective date of this rule, the affected county shall ... (A) Require that any new lot or parcel have an area of at least ten acres, or

Finding: In compliance with this rule, the proposal is to rezone the property to RR-10, with a ten acre minimum lot size. No exception is required to comply with Goal 14 based on the requested lot sizes.

The reasons that may be used to justify a statewide planning goal exception to allow uses or development that would not otherwise be allowed by applicable statewide planning goals is provided by Oregon Administrative rule OAR 660-004-0020 and 660-004-0022. OAR 660-004-022 sets out detailed requirements for applying the first of the Goal 2 Part II(c) criteria, the Goal 2 Part II(c)(1) “reasons” criterion. The permissible reasons that may be relied on to approve a reasons exception depend on the “use” or “development” that the reasons exception is being approved to allow. ORS 660-004-022, subsections (2)-(11) identify 10 different categories of uses or development and describe the reasons or analysis that may be used to authorize each category of uses or development.² ORS 660-004-022(1) applies when adopting a reasons

² OAR 660-004-0022 provides in relevant part:

“An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

“(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

“(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

“(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

“(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

“(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial,

exception for “uses not specifically provided for in OAR 660-004-0022(2) through (12). This application applies OAR 660-004-0022(2), because the exception is to allow rural residential development.

The proposed Zoning and Comprehensive Plan amendment to change the designation of this site from RL Agriculture to RR-10 Rural Residential is justified by the particular circumstances that are unique to the property. Under OAR 660-004-0022(2), the reasons exception may not be based on “market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands.”

Finding:

The plan and the facts of this application provide and establish:

1. Bureau of Land Management and Crooked River National Grassland are available for equestrian activities, mountain biking, and other outdoor activities. (Page 48)
2. There likely are not enough developed park facilities in the County to meet the needs for organized sports like baseball and soccer. However, it is more appropriate for **these types of developed recreational facilities** to be provided inside city limits where the majority of the participants live, rather than in the unincorporated areas of the County. This recognition specifically designates these types of recreation to be within the UGB. Equestrian developments and activities are not included within the types of recreation that should be within the UGB. (Page 49)
3. Recreational Needs Policy 1 provides:

Policy 1: Recognize the importance of recreation to both County residents and visitors.

 - 1.1 ***Private recreational development, including a variety of overnight accommodations, should be permitted in locations that will not conflict with surrounding land uses and where adequate services are available.***
 - 1.2 ***Private development should not be permitted if it would block access to or otherwise have a significant adverse impact on public open space lands.***

This proposal meets these policies. It is one of a variety of overnight accommodations located at a place which will not conflict with surrounding land uses and where adequate services are available. This private development, while being located on property adjacent to Federal recreational land to access them, would not conflict with the use by other members of the public.
4. Recreational Needs Policy 3 is instructive and although it discusses development in the National Forest, it is instructive, by analogy, as to the proper approach to

commercial, or other economic activity in the area.”

permitting development to maximize the recreational opportunities by accessing the National Grass lands. It provides:

Policy 3: Recognize that the Deschutes National Forest and private lands within the National Forest boundary provide invaluable recreational opportunities for both County residents and visitors.

3.2 Recreational and resort development on private lands within the National Forest boundary should continue to be allowed when the development will be in harmony with the natural environment and will not have an adverse impact on forest lands, rivers and streams or wildlife habitat.

This development is totally unique in that it currently has all services necessary to permit residential development. It is near non-resource uses but is buffered by topography and man made buffers. It is located on the edge of the National Grasslands at a location which would be ideal for equestrian use and it is large enough to provide for necessary amenities and opportunities for an equestrian development. No other property will foster this economic asset for the County.

5. This zoning and plan change amendment will improve the economy of Jefferson County. In the current economical downturn, agriculture has been one of the hardest hit industries. Jefferson County governmental entities are suffering, in part, due to the downturn of the value of real property, the downturn in personal finances and the lack of diversity in opportunities. The Comprehensive Plan notes that. ***“In addition to agriculture and other resource-based employment, tourism and recreational activities are likely to be the greatest contributors to the economy from unincorporated lands.”*** (Jefferson County Comprehensive Plan at page The Three Rivers Recreation Area Waterfront zone, Camp Sherman Vacation Rentals zone, Camp Sherman Rural Center zone, and Blue Lake zone were specifically designed to recognize existing tourism-related businesses and allow limited new development that is in harmony with the surrounding area and carrying capacity of the land. Tourism-related businesses have also been developed in Crooked River Ranch. The development of destination resorts could also bring new tourism dollars to the County.

CONCLUSION: The application for Zone Change should be approved.

1. There is no other property within the Madras Urban Growth Boundary which could permit the intended use
2. There is no other property currently zoned RR-10 which would accommodate the intended use.
3. The housing contemplated by this application is not otherwise available and the Madras area zoning lacks this housing type and diversity.
4. The proposed zone and plan map change will allow a development which will meet economic goals of the Comprehensive Plan
5. The change of zoning on this particular property would have no greater impact on the resource land than development of any other property (and in fact is the only

- property in the Madras area that has all of the necessary attributes to foster the intended development).
6. The intended zone change and intended equestrian development is ideally suited to this property because this property is large enough to accommodate the use and support required amenities, the property has all services necessary to permit residential development, the property is near non-resource uses but is buffered by topography and man made buffers and the property is located on the edge of the National Grasslands at a location which would be ideal for equestrian use
 7. The zone and plan map change of this property would not conflict with long range planning for the Madras UGB in that the property is predominately within the Urban Reserve Overlay Zone and the 10 acre minimum is within the long range planning restrictions for the Urban Reserve Overlay Zone. With this overlay zoning and Comprehensive Plan provisions and the information provided herein and in exhibits, the proposal meets the requirements for an exceptions to Statewide Planning Goals 3 and 14 in OAR 660-004-0022 .
 8. The application complies with OAR 660-004-0020(2)(b) because there are no other existing exception areas that could reasonable accommodate the use by increasing the density.
 9. The application complies with the requirements in OAR 660-014-0040 in that the proposed zoning would authorize lots of no smaller than ten acres in size.

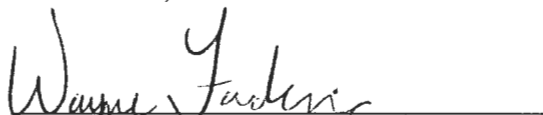
DECISION

The application for a Comprehensive Plan Map designation from Range Land to Rural Land and change the Zoning Map designation from Range Land RL to Rural Residential RR- 10 is approved.

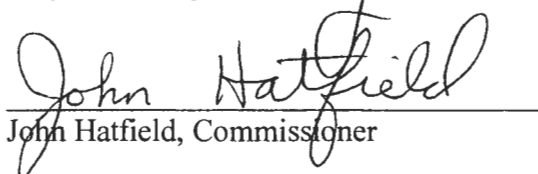
BOARD OF COMMISSIONERS:



Mike Ahern, Commission Chair



Wayne Fording, Commissioner



John Hatfield, Commissioner

Dated this 26th day of October, 2011.

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Attn: Plan Amendment specialist
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