



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

August 7, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Malheur County Plan Amendment
DLCD File Number 005-08

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: August 21, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

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

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Jon Beal, Malheur County

<paa> ya

FORM 2

D L C D NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

Jurisdiction: Malheur County Local File No.: 2008-05-008
(If no number, use none)

Date of Adoption: July 30, 2008 Date Mailed: July 31, 2008
(Must be filed in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 5-30-08

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____
(Please Specify Type of Action)

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

Rezone .48 acre from County Light Industrial to County Commercial

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

Same

DEPT OF
AUG 04 2008
LAND CONSERVATION AND DEVELOPMENT

Plan Map Changed from : _____ to _____
Zone Map Changed from: I-1 to C-1
Location: TL's 100/400 T185.R47 EWM Acres Involved: .48
Specify Density: Previous: NC New: NC
Applicable Statewide Planning Goals: NA
Was an Exception Adopted? Yes: _____ No:

DLCD File No.: 005-08 (16932)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

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

Malheur Co ODOT

Local Contact: Jon D. Beal Area Code + Phone Number: 541-473-5185

Address: 251 B. Street W. #12 City: Uale, OR

Zip Code+4: 97914 Email Address: jbeal@malheurco.org

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

FILED
3:20 PM

ORDINANCE 179

JUL 30 2008

**In the matter of:
Ordinance Amending Malheur County's Zoning
Maps to Rezone A 30' Strip Of Tax Lot 100 Map 18S4717 from C-II
(County Light Industrial) to C-C1 (County Commercial)**

DEBORAH R. DELONG County Clerk
By *Sherrin Childs* Deputy

This matter came before the Malheur County Court sitting in regular session for the reading of this ordinance on June 16 and June 30 2008.

WHEREAS, Robert and Sheryl Baker (Bakers) and Roadrunner Towing, Inc. (Roadrunner) submitted an application to the Malheur County Planning Commission requesting a boundary line adjustment between tax lot 100 and 400 Assessor's Map 18S4717 and following the adjustment an amendment to the County's zoning maps to rezone a 30' strip of tax lot 100 from C-II (f.k.a. M-1 County Light Industrial) to C-C1 (County Commercial); and

WHEREAS, that portion of tax lot 100 Assessor's Map 18S4717 to be rezoned is described on Exhibit "1", attached hereto and incorporated herein by reference; and

WHEREAS, following a quasi-judicial land use hearings on June 26, 2008, the Malheur County Planning Commission made a recommendation to the Malheur County Court, which was supported by findings of fact and conclusions of law, to approve the application by Bakers and Roadrunner; and

WHEREAS, attached hereto as Exhibit "2" and incorporated herein by reference are findings of fact and conclusions of law in support of this ordinance and approving Bakers/Roadrunner's application for a boundary line adjustment and rezone.

**NOW THEREFORE, THE MALHEUR COUNTY COURT, STATE OF OREGON,
ORDAINS AS FOLLOWS:**

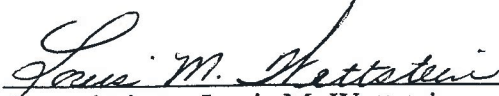
Section 1: Rezone and Amend Zoning Maps

The Malheur County Zoning Map shall be amended as shown on Exhibits "3" and "4", attached hereto and incorporated herein by reference, and the property described in Exhibit "1" shall be rezoned from light industrial to County Commercial (C-C1).

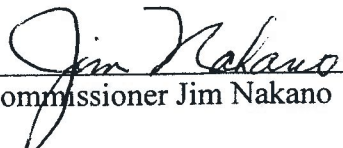
ADOPTED this 30th day of June 2008.



Judge Dan P. Joyce



Commissioner Louis M. Wettstein



Commissioner Jim Nakano

ATTEST:


Kim Mason

A Portion of Tax Lot 18S4717 100:

Land, situated within Section 17, Township 18 South, Range 47 East, Willamette Meridian, Malheur County, Oregon, being a portion of Parcel No. 1 of Partition Plat 99-3, recorded under instrument No. 99-176, being more particularly described as follows:

Commencing at the NE corner of said Parcel No. 1 of Partition Plat 99-3;
thence S.89°47'50"W., coincident to the North boundary of said Parcel No. 1, a distance of 480.00 feet to the Point of Beginning.
thence S.00°00'00"W., parallel with the East boundary of said Parcel No. 1, a distance of 690.47 feet to a point on the South boundary of said Parcel No. 1;
thence S.90°00'00"W., coincident with said South boundary, a distance of 30.00 feet to the SW corner of said Parcel No. 1;
thence N.00°00'00"E., coincident with a Westerly boundary of said Parcel No. 1, a distance of 376.04 feet;
thence S.90°00'00"W., coincident to a Southerly boundary of said Parcel No. 1, a distance of 161.25 feet, to a point on the Easterly Right of Way of Highway 201;
thence N.01°47'25"E., coincident with said Right of Way, a distance of 264.08 feet;
thence continuing along said Right of Way, N.08°07'49"E., a distance of 50.36 feet to the NW corner of said Parcel No. 1 of Partition Plat 99-3;
thence N.89°47'50"E., coincident to the North boundary of said Parcel No. 1, a distance of 175.88 feet to the Point of Beginning.

Said parcel contains 1.60 acres more or less.

EXHIBIT # 1

FINDINGS OF FACT

Planning Department file #2008-05-009

1. APPLICANT:

Name: **Robert Baker** Phone: **(541) 889-6161**

Address: **2980 SW 18th Avenue** City: **Ontario** State: **Oregon** Zip: **97914**

2. APPLICANTS AUTHORIZED REPRESENTATIVE:

Name: **Dan K. Cummings/ CK3, LLC** Phone **(541) 889-5411**

Address: **368 SW 5th Avenue** City: **Ontario** State: **Oregon** Zip: **97914**

3. DEED HOLDER OF THE SUBJECT PROPERTIES:

Parcel 1: Assessor Map: **18S4717** Tax Lot **400**

Name: **Robert F. Baker** Phone: **(541) 889-6161**

Address: **2980 SW 18th Avenue** City: **Ontario** State: **Oregon** Zip: **97914**

Parcel 2: Assessor Map: **18S4717** Tax Lot: **100**

Name: **Robert F. Baker & Sheryl A. Baker – 55%** Phone: **(541) 889-6161**
& Road runner Towing Inc. – 45%

Address: **368 SW 5th Avenue** City: **Ontario** State: **Oregon** Zip: **97914**

4. SPECIFIC DESCRIPTION TO SUBJECT PROPERTY:

Parcel 1:

T. **18 S.**, R. **47 E.**, Sec. **17.**

Assessor's Map No. **18S4717** Tax Lot **400**

Computer Reference No. **7768** Parcel: **1.06 Acres**

Parcel 2:

T. 18 S., R. 47 E., Sec. 17.

Assessor's Map No. 18S4717 Tax lot 100

Computer Reference No. 7767 Size of Parcel: 9.22 Acres

5. State the general description of the proposal:

To consolidate that portion of Tax Lot 100 That is Zoned C-C1 into Tax Lot 400 which is also Zoned C-C1 and adjust the East line of Tax Lot 400 & East Zone line of Tax Lot 100 easterly 30 feet to return the amount of land back into these areas that was lost due to new highway right of way being taken off the West side of these parcels for highway improvements. Adjusting this line to the east not only returns the amount of land back into these parcels, but also creates a better buffer area between these two parcels and also provides for better access to the parcels by providing an alternate access point from SW 18th Avenue and future access to the lands on the South, which will help relieve the pressure from the existing access fronting on Highway 201 (SW 30th Street).

The portion that is being requested for rezone is the 30 foot wide strip adjacent to and east of tax lot 400 and current zoning line extending north through tax lot 100 to SW 18th Avenue.

6. Cite the section in the land use and development ordinance under which you are applying for:

Malheur County Code Title 6, Chapter 10, Section 7: COMPLIANCE WITH COMPREHENSIVE PLAN:

In considering an amendment to the text or zoning maps, the planning commission and county court shall determine the following:

- A. That the proposed change is consistent with the comprehensive plan.

Finding: the current comprehensive plan and zoning map show that at the time of zoning Tax lot 400 contained 1.50 acres with 0.20 acres of this being right of way with 1.30 acres being commercial land and Tax Lot 100 having 1.46 acres of commercial land. (See Exhibit "C"), for a total of 2.76 acres of land being zoned C-C1 (County Commercial). With the Consolidation and adjustment of the current zoning line to the east will return the commercial area back to 2.66 acres which replaces the area that was lost due to the state requiring more highway right of way along the west side of these parcels. In doing this the proposal is consistent with the comprehensive plan as this only returns the area lost, with a slight difference, back to what the

comprehensive plan originally called for in the amount of commercial property.

- B. That the level of development in other locations has reached the point whereby additional land is needed for the proposed use(s), and that the area of the proposed change can best meet such needs.

Finding: This proposal is not a request to add additional acreage to the zoning, but to replace the area lost due to highway right of way taking out area zoned commercial. With the adjustment of the zoning line as proposed and rezoning of this 30 foot strip of land from C-I1 to C-C1 is just replacing the area of commercial land that was lost and is actually still 0.10 acres less than the current plan and map calls for. Therefore this criterion is not applicable to the extent that the request is not adding additional acreage to the existing comprehensive plan.

- C. That adequate rural services are available and not being overburdened.

Finding: This proposal is not adding any additional commercial acreage to the existing comprehensive plan and the existing sites have existing buildings and structures that were built to county codes and standards and are being serviced by rural services at this time and this proposal will not add any additional burden to these services.

- D. That amendments to the text or zoning map which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan.

The criteria within this code for an amendment that significantly affects a transportation facility are:

1. Changes the functional classification of an existing or planned transportation facility;
2. Changes standards implementing a functional classification system;
3. Allows types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
4. Would reduce the level of services of the facility below the minimum acceptable level identified in the transportation system plan. (Ord. 125, 6-20-2000).

Findings: The proposal as requested is not adding any additional acreage to

the existing plan and is not changing any zoning that is not already in place in this area and therefore does not adversely affect any of the existing transportation classification or facility. The proposed requests actually improves the existing transportation plan by providing alternate access to the existing Parcel ! (Tax Lot 400) to SW 18th Avenue and for future access to adjacent lands to the south which will improve the access to the property and existing access off of Highway 201.

EXHIBIT # 3

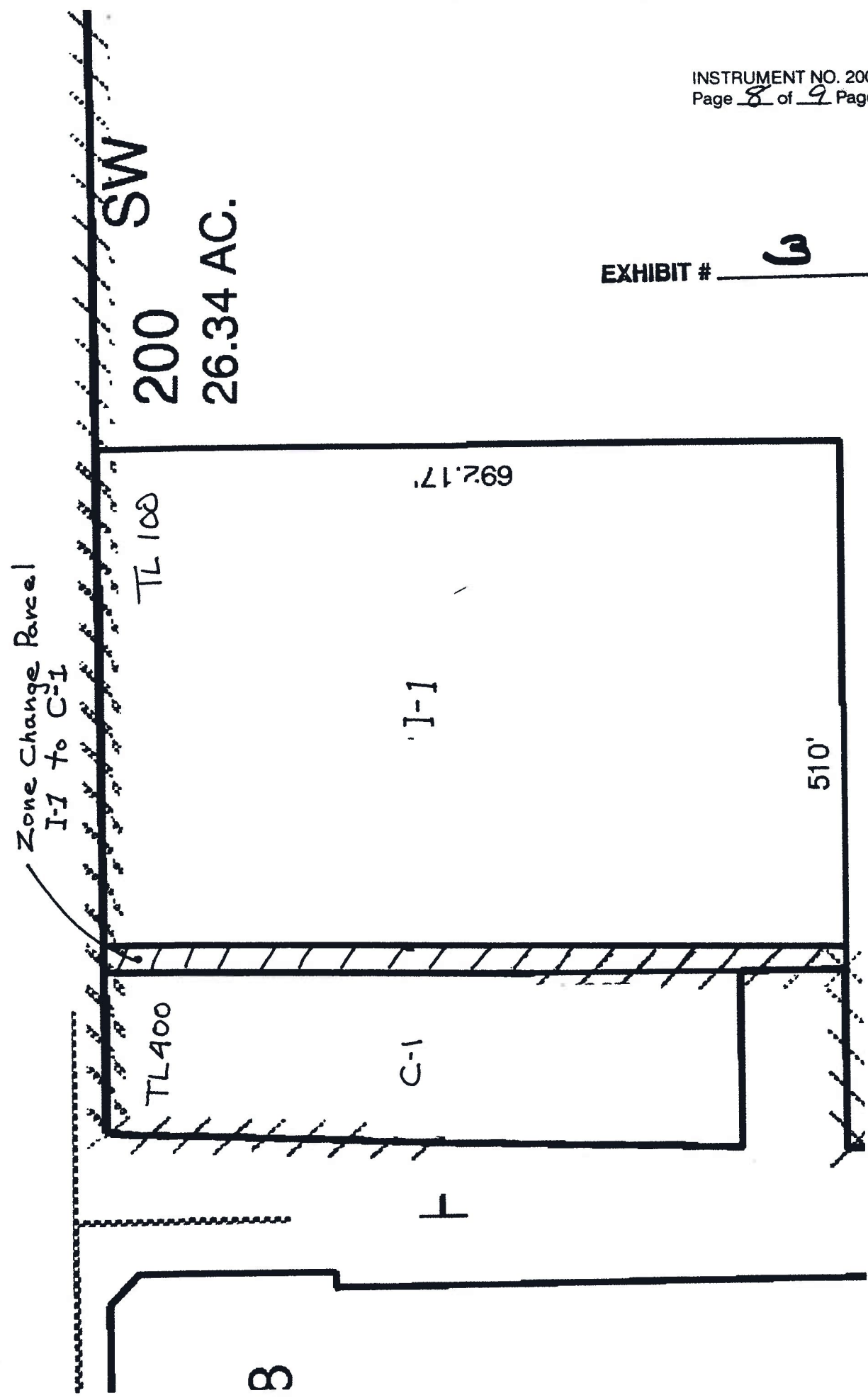


EXHIBIT 4

MAP SHOWING A PROPERTY LINE ADJUSTMENT
within the NW1/4NW1/4 of Section 17,
Township 18 South, Range 47 East, T.M.,
Malheur County, Oregon

SURVEYOR CERTIFICATION & NARRATIVE

I, DANNY K. CUMMINGS, A PROFESSIONAL LAND SURVEYOR REGISTERED IN THE STATE OF OREGON, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND ADJUSTED THE PROPERTY LINE BETWEEN PARCELS 100 AND 400 AS SHOWN ON THIS MAP FOR THE PURPOSES OF LAND KNOWLEDGE TAX LOT 100 ADJUSTMENT BETWEEN THE PARCELS OF LAND KNOWLEDGE TAX LOT 100 AND 400 ON ASSESSOR'S MAP 18S4717. CONTROL BASIS OF BEARINGS AND RECORD INFORMATION FOR THIS SURVEY ARE FROM REFERENCE 1 SHOWN IN TABLE HEREON. ALL MEASURED AND RECORD BEARING AND DISTANCES ARE THE SAME UNLESS NOTED OTHERWISE.



DANNY K. CUMMINGS
2518

RENEWAL DATE: DEC. 31, 2009

DESCRIPTIONS OF ADJUSTED PARCELS

NEW TAX LOT 100

Land, situated in the NW1/4NW1/4, Section 17, Township 18 South, Range 47 East, Malheur County, Oregon, being a portion of Parcel No. 1 of Partition Plot 99-3, recorded under Instrument No. 99-176, and being more particularly described as follows:

Beginning at the NE corner of said Parcel No. 1 of Partition Plot 99-3, thence S.07°07'00"W, coincident with the East boundary of said Parcel No. 1, a distance of 621.7 feet to the SE corner of said Parcel No. 1; thence S.90°00'00"W, coincident with the South boundary of said Parcel No. 1, a distance of 480.00 feet; thence N.07°07'00"E, parallel with the said East boundary, a distance of 690.47 feet, to the NE corner of said Parcel No. 1; thence N.89°47'50"E, coincident with the said North boundary, a distance of 480.00 feet, to the Point of Beginning.

Said parcel contains 7.82 acres more or less.

NEW TAX LOT 400

Land, situated in the NW1/4NW1/4, Section 17, Township 18 South, Range 47 East, Malheur County, Oregon, being a portion of Parcel No. 1 of Partition Plot 99-3, recorded under Instrument No. 99-176, and other lands, being more particularly described as follows:

Commencing at the NE corner of said Parcel No. 1 of Partition Plot 99-3, thence S.89°47'50"W, coincident to the North boundary of said Parcel No. 1, a distance of 480.00 feet to the Point of Beginning; thence S.07°07'00"W, parallel with the East boundary of said Parcel No. 1, a distance of 307.00 feet to a point on the South boundary of said Parcel No. 1; thence S.90°00'00"W, coincident with the said South boundary, a distance of 30.00 feet to the SW corner of said Parcel No. 1; thence N.07°07'00"E, coincident with a Westerly boundary of said Parcel No. 1, a distance of 55.64 feet; thence S.07°07'00"W, a distance of 170.01 feet, to a point on the Easterly Right of Way boundary of Highway 201, coincident with the said boundary, a distance of 544.62 feet; thence continuing along said Right of Way, N.08°07'48"E, a distance of 50.38 feet to the NW corner of said Parcel No. 1 of Partition Plot 99-3; thence N.89°47'50"E, coincident to the North boundary of said Parcel No. 1, a distance of 172.88 feet to the Point of Beginning.

Said parcel contains 2.66 acres more or less.

MALHEUR COUNTY
SURVEYOR

By: _____
Received: _____
Accepted: _____
Survey No. _____
Dwg. No. _____



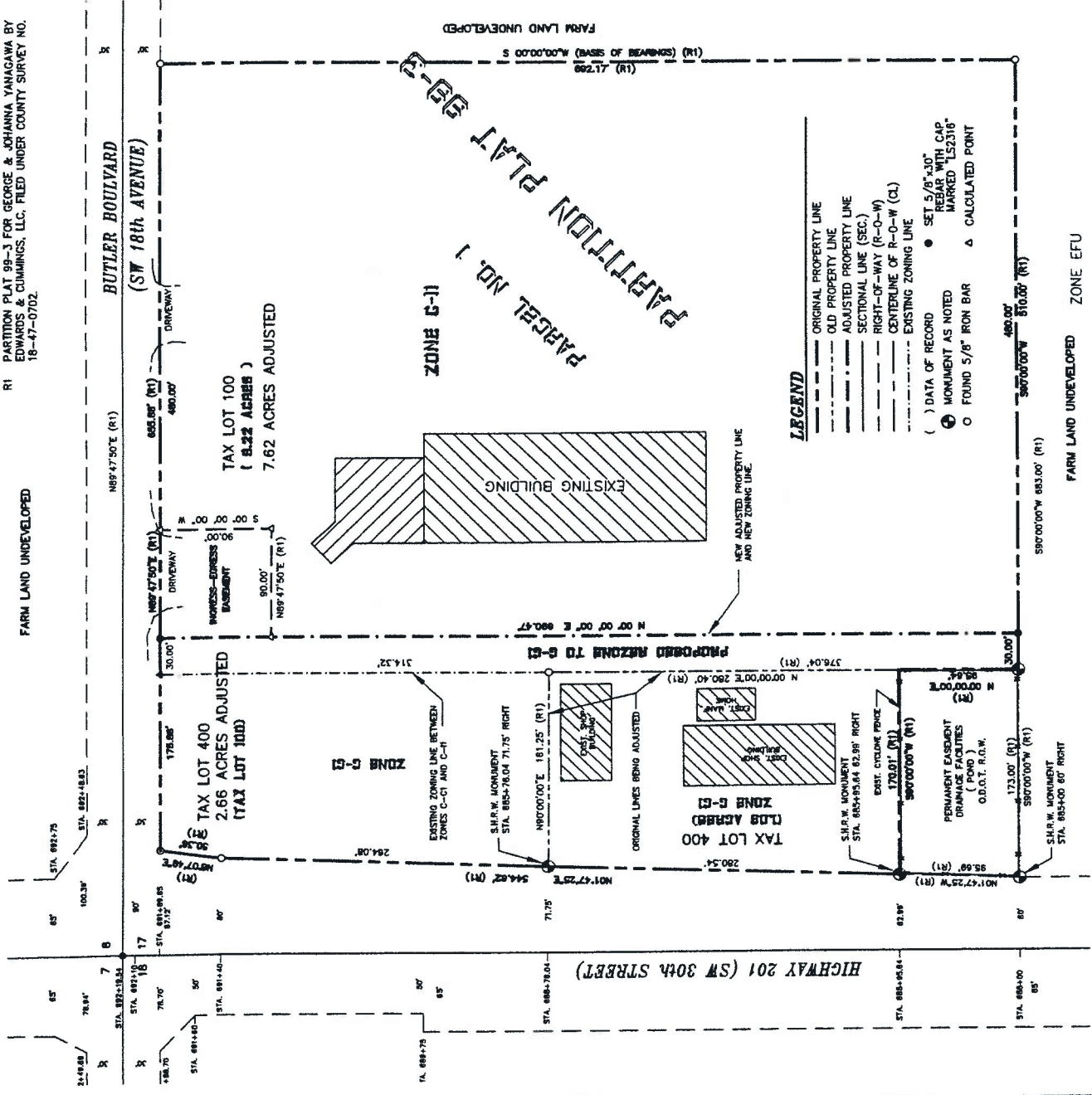
PLA SURVEY FOR:
ROBERT BAKER / ROADRUNNER TOWING INC.



368 S.W. 5TH AVENUE
ONTARIO, OREGON 97914
E-MAIL: ec@cksllc.com
TEL: 541-889-5411 ~ FAX: 541-889-2074

CHECKED BY: DKC FIELDBOOK No.: _____
DRAWN BY: DKC DWG FILE No.: 8-1063
APPROVED BY: DKC FILENAME: V008016.dwg JOB No.: VO-08018
DATE: 04/29/2008 REVISED: _____ SHEET: 1 of 1

RECORDS OF REFERENCE
R1 PARTITION PLAT 99-3 FOR GEORGE & JOHANNA YAMAGAWA BY EDWARDS & CUMMINGS, LLC, FILED UNDER COUNTY SURVEY NO. 18-47-0702.



- LEGEND**
- ORIGINAL PROPERTY LINE
 - - - OLD PROPERTY LINE
 - . - - ADJUSTED PROPERTY LINE
 - - - SECTIONAL LINE (SEC.)
 - - - RIGHT-OF-WAY (R-O-W)
 - - - CENTERLINE OF R-O-W (CL)
 - - - EXISTING ZONING LINE
 - () DATA OF RECORD
 - ⊕ MONUMENT AS NOTED
 - FOUND 5/8" IRON BAR
 - △ CALCULATED POINT
 - SET 5/8" x 10" REBAR WITH CAP MARKED "LS2316"

FARM LAND UNDEVELOPED ZONE EFU

PARTITION PLAT 99-3
 PARCEL NO. 1
 ZONE C-11

TAX LOT 100
(7.82 ACRES ADJUSTED)

TAX LOT 400
(2.66 ACRES ADJUSTED)
(TAX LOT 100D)

TAX LOT 400
(2.66 ACRES)
ZONE C-11

EXISTING BUILDING

EXISTING BUILDING

EXISTING BUILDING

EXISTING BUILDING

EXISTING BUILDING

EXISTING BUILDING

EXISTING BUILDING

EXISTING BUILDING

r County
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St West
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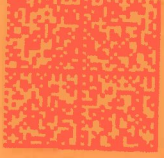
02 1A

0004616467

\$ 01.68⁰

JUL 31 2008

MAILED FROM ZIP CODE 97918



ATTN: Plan Amendment Spec
DLCD
635 Capitol St NE, Ste 150
Salem, OR 97301-2540