

**City of Sweet Home**

Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Staff Report Presented to the Planning Commission

REQUEST: The applicant has requested a Conditional Use Permit to establish a retail marijuana store in an existing building. The subject property contains approximately 23,015 square feet and is in the Commercial Highway (C-2) Zone. Tax Lot 800 is a legal lot of record per survey CS 26417, dated April 10, 2018. A marijuana retailer or medical dispensary is permitted through a conditional use permit [SHMC 17.36.030 (J)].

APPLICANT: Dustin Pomeroy

PROPERTY OWNER: John Cvitanich

FILE NUMBER: CU21-04

PROPERTY LOCATION: 2252 Main Street, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E32BA Tax Lots 00600 and 00800.

REVIEW AND DECISION CRITERIA: Sweet Home Municipal Code Section(s) 17.36.030, 17.80.040

HEARING DATE & TIME: May 3, 2021 at 6:30 PM

HEARING LOCATION: City Hall at 3225 Main Street, Sweet Home, Oregon 97386

STAFF CONTACT: Angela Clegg, Associate Planner
Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov

REPORT DATE: April 26, 2021

I. PROJECT AND PROPERTY DESCRIPTION**ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:**

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Commercial Highway (C-2)	Highway Commercial
Property North	Recreation Commercial (RC)	Planned Recreation Commercial
Property East	Commercial Highway (C-2)	Highway Commercial
Property South	Commercial Highway (C-2) and Residential Low-Density (R-1)	Highway Commercial
Property West	Commercial Highway (C-2)	Highway Commercial

Floodplain Based on a review of the September 29, 2010 FEMA FIRM Maps; Panel 41043C0914G, the subject property is located outside of the 100-year floodplain.

Wetlands: Based on a review of the City of Sweet Home Local Wetlands Inventory and a review of the National Wetlands Inventory Map, the subject property does not contain inventoried wetlands.

Access: The subject property has frontage and access along Highway 20.

Services: The property is connected to City water and sewer.

TIMELINES AND HEARING NOTICE:

Mailed/Emailed Notice: March 5, 2021

Notice Published in Newspaper: March 17, 2021

Planning Commission Public Hearing: May 3, 2021

120-Day Deadline: July 3, 2021

Notice was provided as required by SHMC 17.12.120

II. COMMENTS

Building Division: The Building Program has no issues with this request. Please note that any remodeling of the structure will require a building permit.

Engineering Division: Regarding the CU21-04 Conditional Use for a retail marijuana store on Main Street across from the 23rd Avenue intersection, the location is just outside the ordinance boundary of the Restriction Zone. The parking lot for the building is paved with curb and storm drainage inlets. The March 22, 2018, property line adjustment increased the available parking area to the building. The CEDD-ES has no concerns with the Conditional Use application.

Public Works Dept. Public Works has no concerns with the request at this time.

Sweet Home Fire District: The Fire District has no issues or concerns with this request.

Public Comments: No comments as of the issue of this Staff Report.

III. REVIEW AND DECISION CRITERIA

The review and decision criteria for a conditional use permit are listed below in bold. Staff findings and analysis are provided under each review and decision criterion. The applicant's findings are included in their written statement included in Attachment D.

A. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws. [SHMC 17.80.040(A)]

Staff Findings: The subject property is in the C-2 Zone. The applicant's proposal consists of marijuana retail sales. A marijuana retailer may be established in the C-2 Zone as a conditional use under SHMC 17.36.030(J).

For this application to comply with all applicable city codes and state and federal laws, this application may require additional permits. If this application is approved, staff recommends a condition of approval that prior to operation, the applicant shall obtain all required local, state, and federal permits. The property owner shall obtain all necessary permits from the Building Division and Engineering Division. These permits may include, but are not limited to: building,

electrical, mechanical, and plumbing permits from the Building Division and a new or amended access permit from the Oregon Department of Transportation (ODOT) if needed. The applicant shall obtain all necessary permits from the Oregon Liquor Control Commission (OLCC). The applicant shall submit copies of all required permits and licenses to the Sweet Home Community and Economic Development Department for inclusion in the record of CU21-04.

B. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering, but not limited to, the following:

- 1. Building size;**
- 2. Parking;**
- 3. Traffic;**
- 4. Noise;**
- 5. Vibration;**
- 6. Exhaust and emissions;**
- 7. Light and glare;**
- 8. Erosion;**
- 9. Odor;**
- 10. Dust;**
- 11. Visibility;**
- 12. Safety;**
- 13. Building, landscaping or street features. [SHMC 17.80.040(B)]**

Staff Findings:

1. Building size – The proposed use would be in the existing building on the property, and the applicant has not requested to increase the footprint of that building.
2. Parking and Traffic – The subject property is in the C-2 zone. The applicant would need to provide all parking as required by the applicable sections of SHMC Section 17.08.090. A retail store requires one space for every 200 square feet of floor area. The building that would accommodate the store contains approximately 3,752 square feet. If the entire building is used, 19 parking spaces would be required. The parking plan is included with the application. The connected parking lot is pre-existing. Any additional stall shall be constructed in compliance with all applicable sections of the SHMC, including but not limited to all Stormwater drainage, surfacing, and dimensional standards.
3. Noise – Based on the information provided in the application, no noise impact, beyond what is customary for a retail establishment is anticipated.
4. Vibration – Based on a description of the proposal, no significant vibration would be created by the proposed use.
5. Exhaust and emissions – The applicant is proposing a retail establishment only. The applicant has not proposed a use that would create exhaust or emissions. Odor impacts are discussed below.
6. Light and glare – The applicant has not proposed any new outdoor lighting beyond lighting associated with the business sign. SHMC 17.36.090 provides exterior lighting standards in the C-2 Zone and would apply to any development on the property. That section states that “exterior lighting shall be located in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.”

7. Erosion – The proposed use would be located within an existing building. No significant erosion impact is anticipated.
8. Odor – Pedestrian access to the store would likely occur from the west side of the building. In order to minimize the potential for odor impacts from the property, staff recommends that a condition of approval should require that no marijuana odor be permitted to leave the subject property.
9. Dust – If parking is provided, the applicant would be required to maintain a hard surface parking lot. No additional sources of dust have been identified.
10. Visibility – The proposed use would be located within an existing building. Consequently, staff has not identified any significant visibility impacts that would result from operation of the proposed use.
11. Safety – The proposed use would be regulated by the OLCC and would be required to comply with all applicable security standards. The applicant would need to acquire all applicable state and federal permits prior to operation of the proposed use.

Also, any sign used to advertise the proposed use shall comply with the sign standards listed in SHMC 17.96 as well as any applicable Oregon Department of Transportation (ODOT) requirements.
12. Building, landscaping or street features – The proposed use would be located within an existing building. As proposed, the building, landscaping, and street features in the area would be adequate to accommodate the proposed use.

The application complies with this criterion.

C. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval that include but are not limited to those listed in this chapter. [SHMC 17.80.040(C)]

Staff Findings: Staff has not identified any negative impacts to adjacent properties. In order to ensure compliance with the standards listed in the SHMC, staff has included proposed conditions of approval that are listed in Section V of this report.

The application complies with this criterion.

D. All required public facilities have adequate capacity, as determined by the city, to serve the proposed use. [SHMC 17.80.040(D)]

Staff Findings: The subject property is currently served by City water and sewer. Staff finds that the proposed use has adequate capacity.

The application complies with this criterion.

E. Home occupations must meet the following standards:

1. **The home occupation shall be secondary to the residential use.**
2. **All aspects of the home occupation shall be contained and conducted within a completely enclosing building.**
3. **No materials or mechanical equipment shall be used which are detrimental to residential use of the dwelling or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with the electrical grid, radio or television reception or other similar factors.**
4. **Vehicles related to the home occupation shall be parked in a manner so as to not block any driveway or impede the safe flow of traffic.**

Staff Findings: The applicant has not proposed a home occupation.

F. Marijuana facilities must be located in a fixed location. No temporary or mobile sites of any sort are allowed. [SHMC 17.80.040(F)]

Staff Findings: The applicant is proposing to establish the proposed marijuana facility in an existing building, which is a fixed location.

The application complies with this criterion.

G. Marijuana facilities may not have any drive-up services. [SHMC 17.80.040(G)]

Staff Findings: The applicant has not proposed to offer drive up services.

The application complies with this criterion.

H. Marijuana facilities must be located at least 1,000 feet from the property boundary of any school. [SHMC 17.80.040(H)]

Staff Findings: Based on a review of the Sweet Home GIS, the nearest school is located approximately 1,208 feet to the south west.

The application complies with this criterion.

I. Marijuana facilities must be sited on a property so as to be at least 100 feet from the boundary of any residentially zoned property. [SHMC 17.80.040(I)]

Staff Findings: Based on a review of the Sweet Home Zoning map, the nearest residentially zoned property is located approximately 258 feet to the south.

The application complies with this criterion.

J. In approving a conditional use permit application, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions determined to be necessary to assure that the proposed development meets the decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole. [SHMC 17.80.050]

Staff Findings: This provision of the SHMC allows the Planning Commission to impose conditions of approval. This is an opportunity for the Planning Commission to determine if conditions are needed in order to ensure compliance with the "decision criteria as well as the best interests of the surrounding properties, the neighborhood, and the city as a whole." As specified in SHMC 17.80.050, conditions could include, but are not limited to: expanding setbacks, limiting hours of operation, requiring site or architectural design features, imposing additional sign standards, and so forth.

In order to ensure compliance with the standards listed in the SHMC, staff has included proposed conditions of development listed in Section V of this report. These conditions are primarily a customized list of existing local, state, and federal standards that apply to the application. Staff has also recommended a condition of approval that "no marijuana odor is permitted to leave the subject property." See recommended Condition 2. This condition is intended to minimize a potential negative externality from the retail operation. Staff thinks that this is an appropriate condition to impose since the business gains pedestrian access to the sidewalk on Highway 20.

K. A conditional use permit shall be void one year after the date of the Planning Commission approval if the use has not been substantially established within that time period. [SHMC 17.80.070]

Staff Findings: As required under this section, staff recommends that a condition of approval require that the conditional use permit shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.80.070(A), within that time period. The City Planner may grant one extension of up to one year for a conditional use permit that contained a one-year initial duration upon written

request of the applicant and prior to the expiration of the approved period. Requests other than a one-year request made prior to the expiration of the approved period must be approved by the Planning Commission. A conditional use permit not meeting the above time frames will be expired and a new application will be required.

IV. PLANNING COMMISSION ACTION

In acting on a Conditional Use permit application, the Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria. If approved, the Planning Commission may impose conditions of approval. Staff's recommended conditions are included in Section V.

Appeal Period: Pursuant to ORS 227.175, the Planning Commission may establish an appeal period of not less than 12 days from the date the written notice of the Planning Commission's decision is mailed. Staff's recommendation is that the Planning Commission's decision on this matter be subject to a **12-day appeal period** from the date that the notice of decision is mailed.

Order: After the Planning Commission decides, staff recommends that the Planning Commission direct staff to prepare an order that is signed by the Chairperson of the Planning Commission. The Order would memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

V. RECOMMENDED CONDITIONS IF APPROVED

If the Planning Commission approves this application, staff recommends that the conditions of approval listed below be required in order to ensure that the application is consistent with the findings in the Review and Decision Criteria (Section III) and as required by the Sweet Home Municipal Code and other provisions of law. Appeals to the Land Use Board of Appeals (LUBA) may only be based on Review and Decision Criteria contained in Section III.

Recommended Conditions of Approval for CU19-07:

1. The proposed marijuana retail store shall be located within the existing building located on the subject property. The proposed marijuana retail store shall be limited to the activities evaluated under this application.
2. The use shall be operated so that no marijuana odor is permitted to leave the subject property.
3. As required by SHMC 17.36.090, exterior lighting shall be in such a manner so as not to face directly, shine or reflect glare onto a street, a highway or a lot in a residential zone.
4. Prior to operation, the applicant shall obtain all required local, state, and federal permits. The property owner shall obtain all necessary permits from the Building Division and Engineering Division. These permits may include, but are not limited to: building, electrical, mechanical, and plumbing permits from the Building Division and a new or amended access permit from the Oregon Department of Transportation (ODOT). The applicant shall obtain all necessary permits from the Oregon Liquor Control Commission (OLCC). The applicant shall submit copies of all required permits and licenses to the Sweet Home Community and Economic Development Department for inclusion in the record of CU21-04.
5. Parking shall be provided for the marijuana retail store as required by the SHMC. Parking facilities shall comply with all applicable sections of SHMC 17.08.090; including but not limited to all stormwater drainage, surfacing, and dimensional standards. All parking lots and driveway approaches shall be hard surfaced and permanently marked.

6. Any sign used to advertise the proposed use shall comply with the sign standards listed in SHMC 17.96 as well as any applicable Oregon Department of Transportation (ODOT) requirements.
7. The conditional use permit shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.80.070(A), within that time period. The City Planner may grant one extension of up to one year for a conditional use permit that contained a one-year initial duration upon written request of the applicant and prior to the expiration of the approved period. Requests other than a one-year request made prior to the expiration of the approved period must be approved by the Planning Commission. A conditional use permit not meeting the above time frames will be expired and a new application will be required.

VI. ATTACHMENTS

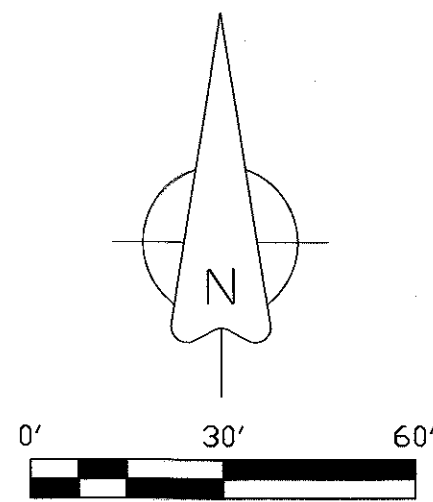
- A Site Plan
- B Subject Property Map
- C Application



1 inch = 108 feet

CU21-04
13S01E32BA 800, 600

Date: 03/05/21



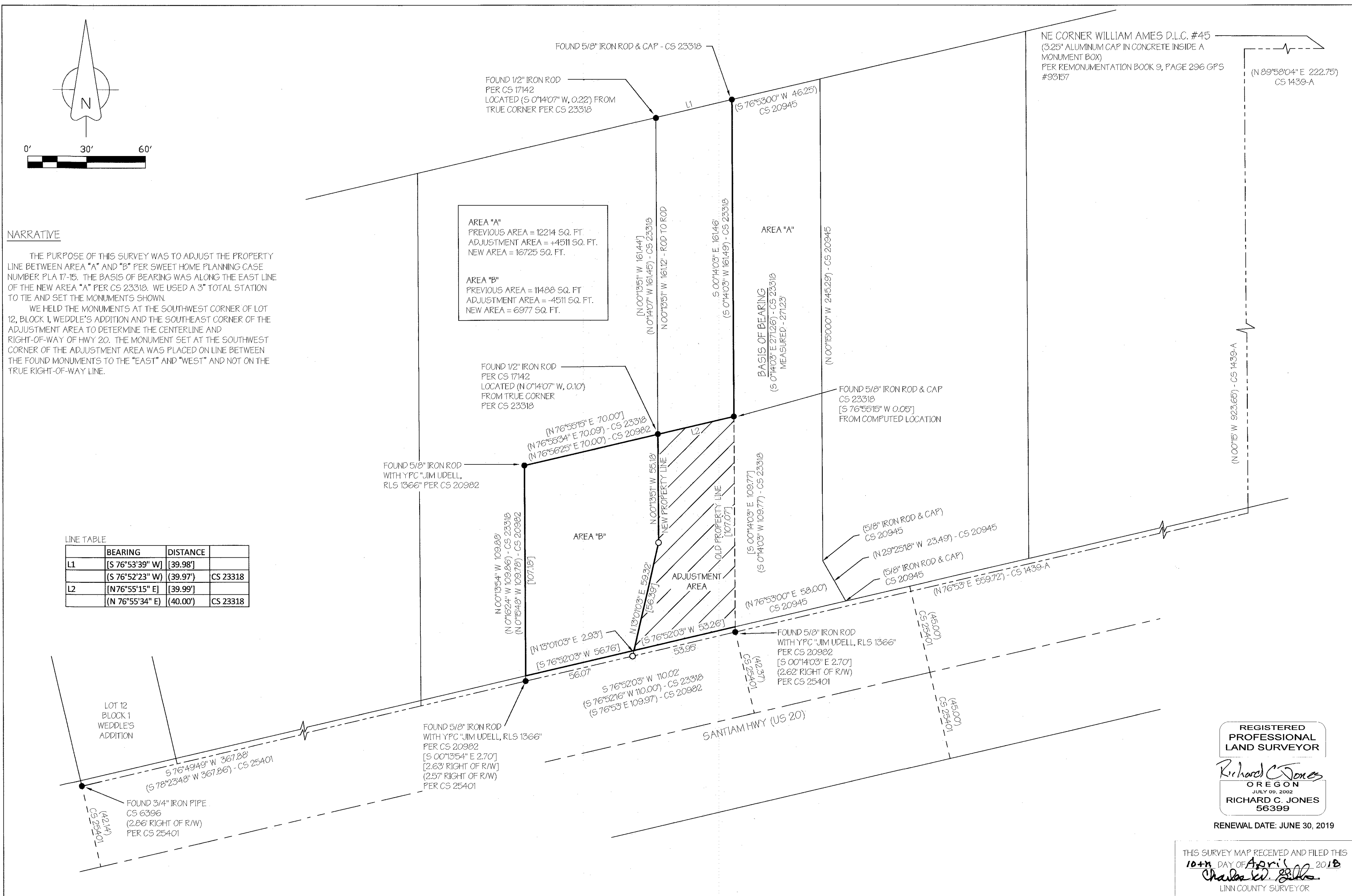
NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO ADJUST THE PROPERTY LINE BETWEEN AREA "A" AND "B" PER SWEET HOME PLANNING CASE NUMBER PLA 17-15. THE BASIS OF BEARING WAS ALONG THE EAST LINE OF THE NEW AREA "A" PER CS 23318. WE USED A 3" TOTAL STATION TO TIE AND SET THE MONUMENTS SHOWN.

WE HELD THE MONUMENTS AT THE SOUTHWEST CORNER OF LOT 12, BLOCK 1, WEDDLE'S ADDITION AND THE SOUTHEAST CORNER OF THE ADJUSTMENT AREA TO DETERMINE THE CENTERLINE AND RIGHT-OF-WAY OF HWY 20. THE MONUMENT SET AT THE SOUTHWEST CORNER OF THE ADJUSTMENT AREA WAS PLACED ON LINE BETWEEN THE FOUND MONUMENTS TO THE "EAST" AND "WEST" AND NOT ON THE TRUE RIGHT-OF-WAY LINE.

LINE TABLE

	BEARING	DISTANCE	
L1	[S 76°53'39" W]	[39.98']	
	[S 76°52'23" W]	[39.97']	CS 23318
L2	[N 76°55'15" E]	[39.99']	
	[N 76°55'34" E]	[40.00']	CS 23318



- LEGEND
- = FOUND MONUMENT AS NOTED
 - = SET 5/8" X 30" REBAR WITH ORANGE PLASTIC CAP "C.T.C.", LS 56399
 - () = INFORMATION FROM PREVIOUS SURVEY/DEED
 - [] = CALCULATED INFORMATION

APPROVAL:
CITY OF SWEET HOME FILE NO. PLA 17-15

Darald B. Ante
COMMUNITY DEVELOPEMENT DIRECTOR

3-22-18
DATE

CS	26417	SHEET 1 OF 1
FOR:	JOHN CVITANICH	
LOCATION:	N 1/2, SECTION 32, T. 13 S., R. 1 E., W. M. & IN WILLIAM AMES D.L.C. #45 CITY OF SWEET HOME LINN COUNTY, OREGON	
DATE:	DECEMBER 18, 2017	SCALE: 1" = 30'
DRAWN BY:	R. JONES, PLS 56399	
Cascade Timber Consulting, Inc. 3210 Hwy. 20, PO Box 446 Sweet Home, OR 97386 Phone: (541) 367-2111		

THIS SURVEY MAP RECEIVED AND FILED THIS
10th DAY OF April, 2018
Charles W. Jones
LINN COUNTY SURVEYOR

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Richard C. Jones
OREGON
JULY 09, 2002
RICHARD C. JONES
56399

RENEWAL DATE: JUNE 30, 2019



Community and Economic Development Department

City of Sweet Home
1140 12th Avenue
Sweet Home, OR 97386
541-367-8113
Fax 541-367-5113
www.ci.sweet-home.or.us

Application for a Conditional Use Permit

Date Received: 3-4-21
Date Complete: 03.05.21
File Number: CU21-04
Application Fee \$: 615.00 cash
Receipt #: 75898/4264
Hearing Date: 05.03.21

Applicant's Name:

Dustin Pomeroy

Applicant's Address:

43101 N River Sweet Home OR 97386

Applicant's Phone and e-mail:

720 320-9525 dustlp84@gmail.com

Subject Property Address:

2252 Main St Sweet Home, Or 97386

Subject Property Assessor's Map and Tax Lot:

258141 13501E32DA00800

Subject Property Size:

Property Owner:

John Cvitanich

Owner's Address:

26757 Powell Hill Rd, Sweet Home

Owner's Phone and email:

(541) 401-4927

johndcvitanich@gmail.com

258125 13501E32DA00600

Subject Property: Zoning Classification

Comprehensive Plan Classification:

Nature of Applicants Request

Narrative describing the proposed use: Brief Description on this form and attach extra sheets if needed.

Retail Cannabis Dispensary For Retail & Medical Consumers

Impacts on the neighborhood: Include traffic, parking, noise, odor, dust or other impacts. Brief Description on this form.

No impact to noise, odor, dust or various other concerns. Has on site parking. Minimal to no impact on traffic. See additional info

Submittal Requirements

The checklist on the other side of this application lists the required items must be submitted with this application and the Criteria the request must meet. Please address all items that apply to this request.

I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

Applicant's Signature:

[Signature]

Date:

3-4-21

Property Owner's Signature:

[Signature]

Date:

3-4-21

Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.



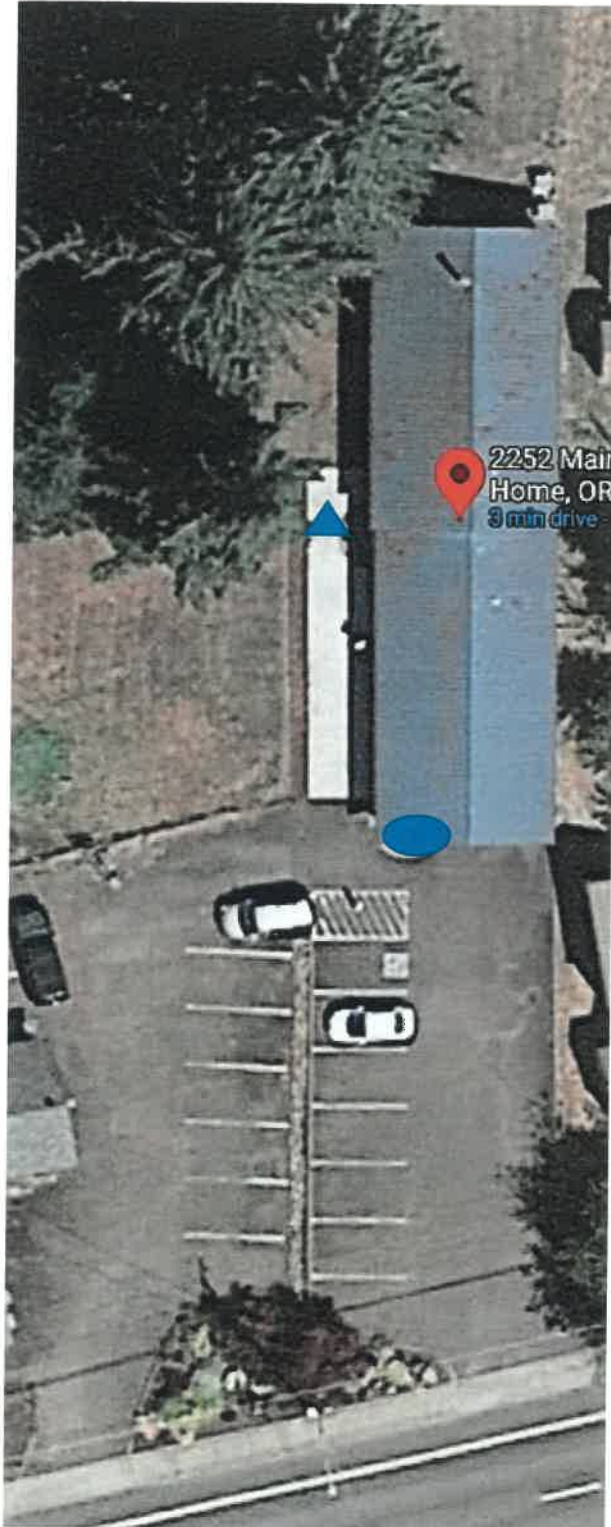
Going Green Sweet Home
925 Main Street
Sweet Home, Oregon
(541) 405-8071

Re: Conditional Use Application Form

Below we will attempt to address the application requirements for a Conditional Use Permit for the address 2252 Main St. Sweet Home, Or 97386

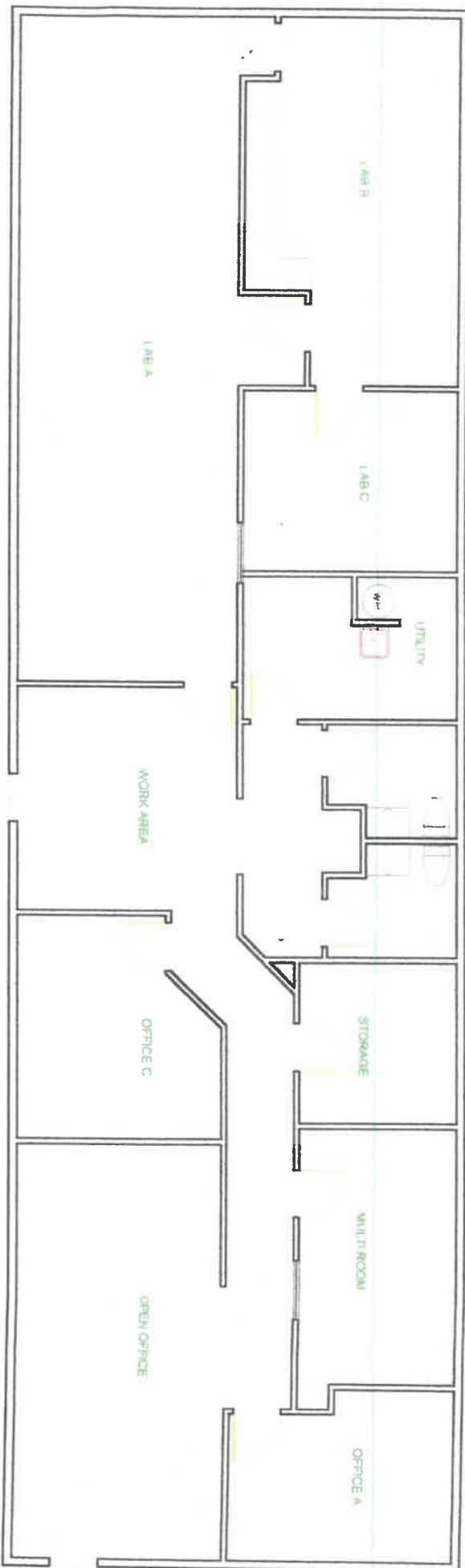
SHMC 17.80.030

1. **Site Plan:** There is no proposed development. We are interested in the existing structure.
2. **Proposed Use/Impact Statement:** The proposed use would be to move an existing Marijuana Retail store to the location from its current location across town. The impact on the neighborhood, we believe, would be minimal as it is already a part of town where many of our customers visit regularly for grocery and retail shopping. The building is back from the street and includes off street parking allowing for little to no traffic other than the center lane being used to turn into our parking lot if traveling from the west part of town. The retail nature of the business results in low impact regarding noise, odor, or other concerns to surrounding businesses.
3. **Business Operation Plan:** Operation of a retail shop with normal operating hours. Usually 9AM to 9PM during the winter months and 8AM to 10PM during the summer months.
4. **Parking:** The location has 13 off street parking locations, including one ADA approved spot near the building. I have included an additional document that shows the parking and entrance/exit for the shop.
5. **Entrance/Exit Info:** The entrance will be located on the west side of the building and the exit on the south side exiting into the parking lot. The locations are visible on the attached document for the circulation plan. The size of the doors are 36.68 Wide making them ADA compliant.
6. **Traffic Impact Study:** We have not done a traffic impact study but understand the requirement if requested by the City Engineer or Planner.



On Site Circulation Plans

Customers would enter the lot from the eastern entrance and select a vacant parking place. The entrance to the store will be located at the center of the building (▲) and the exit will be located on the south side of the building (●). They will then pull around the lot and exit on the western side of the lot.



LIVING AREA
2807 sq ft

Linn County Surveyor Application



3/2/2021, 3:16:52 PM

1:1,128
0 0.01 0.01 0.02 0.02 mi
0 0.01 0.01 0.02 0.04 km
Linn County GIS

- Townships
- County Boundary
- Section Corners
- Roads
- Cities
- Highways
- Surveys
- Sections
- Tax Lots

Map created using the Linn County Oregon web mapping application
This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the

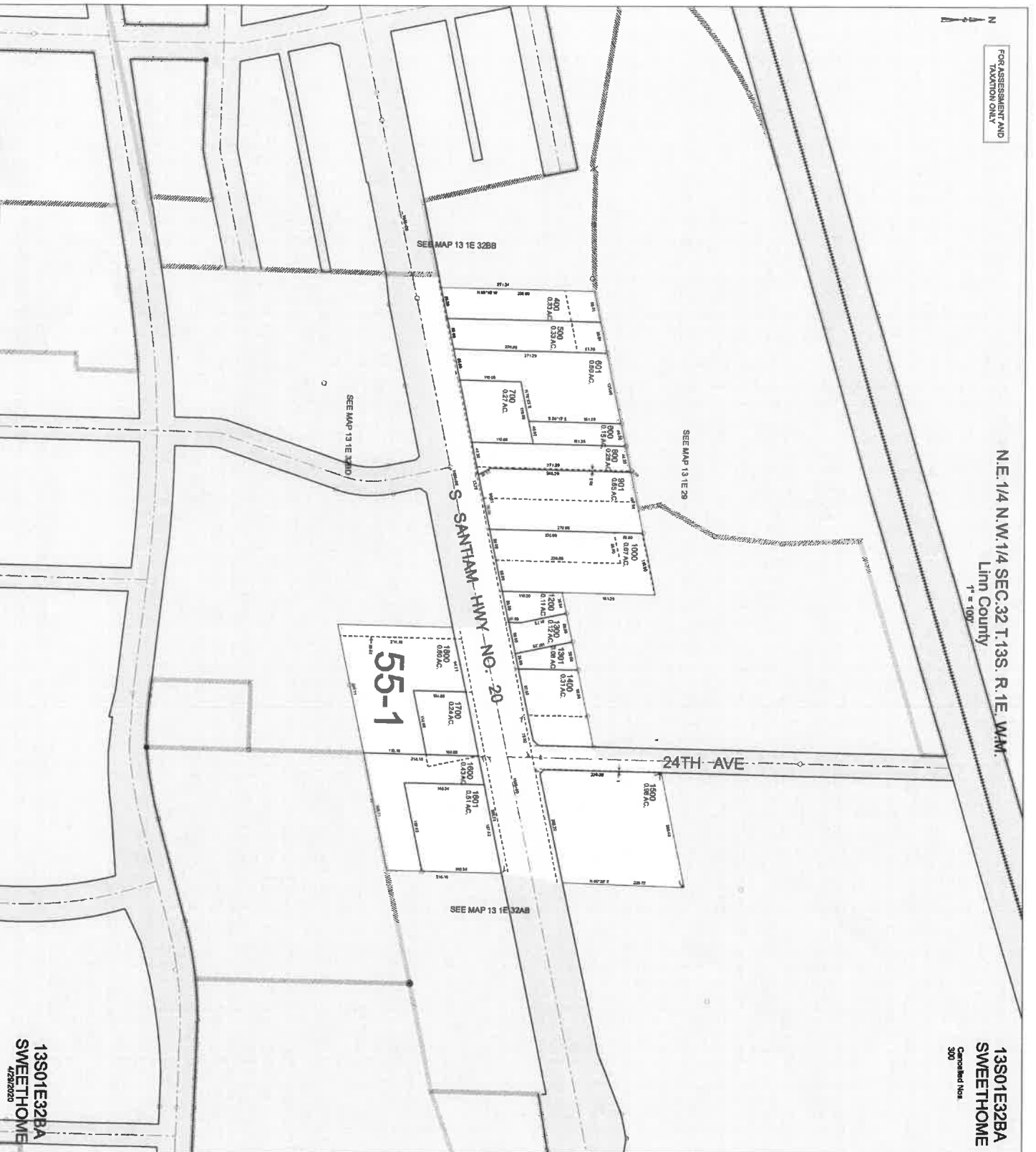
FOR ASSESSMENT AND
MATION ONLY

N.E. 1/4 N.W. 1/4 SEC. 32 T.13S. R.1E. WM.

Linn County

1" = 100'

13S01E32BA
SWEETHOME
Cancelled Nos
300



13S01E32BA
SWEETHOME
4250200