



# Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

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## NOTICE OF ADOPTED AMENDMENT

6/3/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Hermiston Plan Amendment  
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 15, 2010

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.

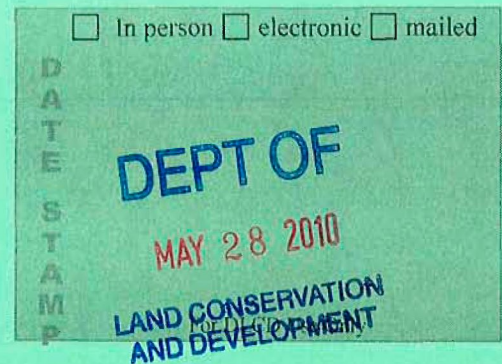
**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification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

Cc: Clinton Spencer, City of Hermiston  
Gloria Gardiner, DLCD Urban Planning Specialist  
Grant Young, DLCD Regional Representative  
Bill Holmstrom, DLCD Transportation Planner

<paa> YA

# Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Hermiston**

Local file number: **Les Schwab**

Date of Adoption: **May 24, 2010**

Date Mailed: **May 26, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **3/26/2010**

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".

Amend the City's comprehensive plan map from Low Density Residential (L) to Commercial (C) with a corresponding change in zoning designation from Duplex Residential (R-2) to Outlying Commercial (C-2) for approximately .44 acres.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Low Density Residential (L)** to: **Commercial (C)**

Zone Map Changed from: **Duplex Residential (R-2)** to: **Outlying Commercial (C-2)**

Location: **175 E. Jennie Avenue & 180 E. Beebe Avenue**

Acres Involved: **.44**

Specify Density: Previous: **3.5 DU/Acre**

New: **N/A**

Applicable statewide planning goals:

**1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

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

Local Contact: **Clinton F. Spencer**

Phone: **(541) 567-5521**

Extension:

Address: **180 NE 2<sup>nd</sup> Street**

Fax Number: **541-567-5530**

City: **Hermiston**

Zip: **97838**

E-mail Address: **cspencer@hermiston.or.us**

**ORDINANCE NO. 2165**

AN ORDINANCE AMENDING THE CITY OF HERMISTON COMPREHENSIVE PLAN MAP AND ZONING MAP.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

**SECTION 1.** The following described property shall be changed on the city comprehensive plan map from "Low Density Residential (L)" to "Commercial (C)" and on the city zoning map from Duplex Residential (R-2) to Outlying Commercial (C-2), to-wit:

A Tract of land located in the Northwest Quarter of the Northwest Quarter of Section 11, Township 4 North, Range 28, East of the Willamette Meridian, Umatilla County, Oregon described as follows:

Beginning at the Southwest corner of the Northwest Quarter of the Northwest Quarter of said Section 11; thence North 00°20'46" East a distance of 300.06 feet; thence South 89°43'10" East a distance of 345.00 feet to the TRUE POINT OF BEGINNING FOR THIS DESCRIPTION, said true point of beginning also being the Northeast corner of land described in contract to Pete M. Petleawich, et. ux., recorded at Book 268, page 573, Deed Records, of Umatilla County, and a point on the South right-of-way line of East Beebe Avenue a distance of 64.92 feet to the Northwest corner of land conveyed to Marion A. Ulmer, et. ux., by deed recorded in Book 210, page 22, Deed Records; thence South 00°19'18" West along the West line of said Ulmer Tract a distance of 149.86 feet to the Southwest corner thereof; thence North 89°45'18" West a distance of 65.00 feet to the Southeast corner of said Petleawich tract; thence North 00°21'08" East along the East line of said Petleawich tract a distance of 149.88 feet to the True Point of Beginning;

Also,

Beginning at a point on the South line of the Northwest Quarter of the Northwest Quarter of Section 11, Township 4 North, Range 28, which point lies 345 feet East of the Southwest corner of the said Northwest Quarter of the Northwest Quarter, said point also being the Southeast corner of that tract of land conveyed to Collin J. Cooper, et ux., by Warranty Deed recorded in Book 178, Page 387, of the Deed Records of Umatilla County, Oregon; thence North along the East line of said Cooper tract 150 feet to the Northeast corner thereof; thence continue North along the East line of a tract of land conveyed to avid S. Frazier, et ux., by Warranty Deed recorded in Book 178, Page 4 of said Deed Records, a distance of 150 feet to the Northeast corner thereof; thence East a distance of 65 feet to the Northwest corner of that tract of land conveyed to Roland Deverde Elwood, et al, by Warranty Deed recorded in Book 179, Page 501 of the said Deed Records; thence South along the West line of said Elwood Tract 150 feet to the Southwest corner thereof; thence continue South along the West line of that tract of land conveyed to J.E. Whaley, et ux., by Warranty Deed recorded in Book 177, Page 390 of the said Deed Records, to a point on the Southerly line of the said Northwest Quarter of the Northwest Quarter; thence West along said Southerly line 65 feet to the point of beginning;

EXCEPTING therefrom the North 150 feet;

All being East of the Willamette Meridian, Umatilla County, Oregon.

**SECTION 2.** The findings of fact as adopted by the City Council on May 24, 2010 are incorporated herein by reference.


**SECTION 3.** The effective date of this ordinance shall be the thirtieth day after enactment.

PASSED by the Common Council this 24<sup>th</sup> day of May, 2010.

SIGNED by the Council President this 24<sup>th</sup> day of May, 2010.

  
COUNCIL PRESIDENT

ATTEST:

  
CITY RECORDER

analysis continues on to state that the increase in trips will not have a significant effect on any of the intersections studied and all intersections will continue to operate at an acceptable level of service. Additionally, the applicant proposes to renovate and improve the driveway connections to E Beebe and E Jennie Avenues. These reconfigured driveways will decrease reliance on E Beebe Avenue to exit the property and increase traffic flow to the E Jennie Ave signalized intersection.

When considering a request to amend the comprehensive plan or zoning maps, an applicant must demonstrate compliance with the city's amendment criteria. The criteria are as follows:

1. The requested change is in conformance with the comprehensive plan and the goals and policies of the plan.
2. There is public need for the comprehensive plan amendment/zone change and whether that need is best served by changing the zoning classification on the property under consideration.
3. The public need is best served by changing the classification for the site in question as compared with other available property.
4. The potential impact upon the area from the change has been considered.

#### **DRAFT FINDINGS**

**The requested change is in conformance with the comprehensive plan and the goals and policies of the plan.**

1. The proposed comprehensive plan map amendment and zone change are consistent with those plan policies that are relevant to this request. The relevant goals are those that address the addition of commercial land and the removal of residential land.
2. The public has had adequate opportunity to review and comment on the proposal as required by Policy 1 of the comprehensive plan. The city published a notice of public hearing on April 18, 2010 notifying the public of the proposed amendment and provided a direct mailing of the proposal to all property owners within 300 feet. The planning commission held a public hearing on May 12, 2010 at which time the public was provided an opportunity to comment on the proposal. The city council held a public hearing on May 24, 2010 at which time the public was provided an opportunity to comment on the proposal.
3. The city is required by Policy 2 to monitor and periodically update the comprehensive plan in response to changing conditions. Amending the designation of the 19,000 square feet in question will allow the applicant to construct a modern facility which is more efficient and better suited to the traffic patterns which have changed substantially since the site was originally developed.
4. Policy 7 requires the city to protect natural resources. There are no identified natural resources on the site. The site is designed to contain all storm water on-site, thereby limiting storm run-off impacts on water quality.

5. Policy 8 requires protection of groundwater resources. The site is serviced by existing municipal water supplies and will not draw down the groundwater supply.
6. Policy 11 requires compliance with state and federal air quality standards. There are no major point sources of air pollution in the city's UGB. The proposed amendment and subsequent redevelopment will not generate significant amounts of air pollution.
7. Policy 12 requires the city to comply with state noise standards to minimize impacts to residential uses. Consideration of a map amendment is not an approval of a specific development proposal. However, the applicant employs an acoustical consultant to assist in development plan which will minimize noise impacts from the redevelopment on adjacent residential uses.
8. Policy 14 requires the city to control or prohibit development in areas with natural hazards or other development limitations. There are no known or mapped development hazards on the subject property.
9. Policy 15 requires the city to encourage energy conservation. The subject property is centrally located in the city's commercial core. Available alternative locations to rebuild the site are all located farther from the city core and would require more travel time and energy usage for customers. The redeveloped facility will also utilize more efficient construction techniques and building materials which will result in a more energy efficient structure.
10. Policy 19 requires the city to assure the availability of commercial land. The city adopted findings in 2005 which indicated a shortage of available commercial land in the northern portion of the city. It is not possible to redevelop the existing tire center on this site without adding additional land to the commercial inventory.
11. Policy 20 requires the city to promote varied housing opportunities in the city. The subject property is located in an area where commercial and residential zoning abut mid-block rather than at a street intersection. The proposed amendment moves this mid-block boundary 65 feet to the east and maintains the existing pattern of commercial development adjacent to residential uses in this neighborhood.
12. The site is already serviced by municipal facilities and no extensions or upgrades will be required. Therefore, the proposal is in conformance with Policies 22, 23 and 24 regarding provision of urban services.
13. Policy 25 requires the city to support the provision of high quality education. The expansion will add substantial value to the city's tax base which supports the school system.
14. The proposed amendment will result in a commercial development of slightly smaller size than the existing use on a larger lot. There should be no additional demand for police, fire or other governmental services as a result of the redevelopment. Policies 26, 27 and 28 relating to provision of government services.

15. Policy 30 requires the city to promote a balanced, well-integrated transportation system. The applicant has prepared a traffic impact analysis which demonstrates that the proposed amendment will not impede traffic on Highway 395.
16. Policy 31 requires the city to comply with the provisions of the transportation planning rule as required by the State of Oregon. The applicant's analysis has determined that the intersection of E Beebe and Highway 395 will meet ODOT's mobility standard for the planning horizon. The full buildout of the site will generate more traffic, specifically 11 additional peak hour trips and 138 daily trips, but the intersections in the affected area will still function within mobility standards.

**The public need for the comprehensive plan amendment and whether the public need is best served by changing the zoning classification on the property under consideration.**

17. The proposed amendment and redevelopment of the tire center provides a service to the residents of Hermiston and the surrounding area. The amendment will allow for more efficient operation and improved service to customers.
18. The tire center site is located along Highway 395 which creates a convenient access point for customers, especially truck customers, minimizing truck traffic on local residential and commercial streets.
19. It is in the public interest to facilitate growth of the business to provide efficient service to new and existing customers. The enlarged site will allow the business to continue to operate while redevelopment occurs.

**The public need is best served by changing the classification for the site in question as compared with other available property.**

20. The existing tire center is a well-known presence in Hermiston and it is in the public's interest for operations to continue at a central, convenient and well-known location.
21. Adding additional property to the existing tire center will allow the creation of an improved circulation system which provides one-way ingress and egress for large trucks.
22. Driveway consolidation on Highway 395 will reduce congestion and cause less traffic disruption on the highway.
23. The property is bounded by existing streets on the west, north and south, leaving eastward expansion as the only expansion option.
24. The applicant has considered alternative sites in the past, however the signalized intersection, good visibility and available property for expansion make this the optimal location for expanding the business.

**Explain how the potential impact upon the area from the change has been considered.**

25. The proposed land use change maintains the existing land use pattern, but moves said pattern further to the east.
26. The applicant commissioned a traffic impact analysis. The analysis determined that the change would have no negative impact on the traffic infrastructure.
27. The proposed driveway reconstruction and relocation plan will minimize the impact of truck traffic in the neighborhood.
28. The applicant will be required to design the final site plan to provide noise mitigation techniques to maintain compliance with §92.27 of the ordinance code relating to noise.
29. The relocated truck canopy will be setback from the eastern property line 30 feet in order to minimize noise impacts to the neighboring residential use.
30. The new site design will accommodate better on-site circulation resulting in less vehicle maneuvering (and therefore noise) on the local street system.
31. A new concrete wall will be located along the eastern property line between the residential and commercial uses, minimizing noise impacts to the east.

**Consistency with statewide planning goals**

32. Goal 1: Citizen Involvement: The city has an acknowledged citizen involvement plan. The city has followed the applicable procedures in the plan in considering the application by holding a public hearing before the planning commission on May 12, 2010.
33. Goal 2: Land Use Planning: The city's comprehensive plan and land use regulations are acknowledged by LCDC. The proposed amendment has been processed according to the acknowledged procedures and the city has adopted findings supporting the factual base for the application as required.
34. Goal 3: Agricultural Lands: The site is within the Hermiston UGB and is urban. Goal 3 is not applicable.
35. Goal 4: Forest Lands: The amendment does not affect any existing forest lands. Goal is not applicable.
36. Goal 5: Natural Resources: The subject property is not within any identified natural resource, scenic, historic or other Goal 5 resource land. Therefore, Goal 5 is not applicable.

37. Goal 6: Air, Water and Land Resource Quality: The development will be required to comply with all state, federal and local regulations for air and water quality. Redevelopment will allow improved compliance with water quality standards with on-site treatment of storm water in bioswales.
38. Goal 7: Areas Subject to Natural Hazards: The site is not within any mapped natural disaster or natural hazard area. Goal 7 is not applicable.
39. Goal 8: Recreational Needs: The amendment and redevelopment will enhance the travel safety of residents and visitors allowing greater access to recreational needs.
40. Goal 9: Economic Development: The proposed amendment will allow an existing business to remain current, modern and efficient and provide adequate size to continue operations.
41. Goal 10: Housing: The removal of 0.44 acres from the housing inventory will not materially diminish housing opportunities within the city.
42. Goal 11: Public Facilities and Services: The site is already serviced by public facilities to the north, west and south. All services are adequate for the proposal.
43. Goal 12: Transportation Planning: The applicant's traffic analysis determined that the impact of adding 0.44 acres to the commercial land supply will have a minimal impact on the street system. The engineers have determined that there will be no negative impact on the city's transportation system which is consistent with Goal 12.
44. Goal 13: Energy Conservation: It is more energy efficient to rebuild the tire center on-site rather than relocate to another location which is further from the downtown core.
45. Goal 14: Urbanization: The site is already within the UGB and city limits and is existing urban property.
46. Goal 15: Willamette River Greenway: This goal is not applicable to the request.
47. Goal 16: Estuarine Resources: This goal is not applicable to the request.
48. Goal 17: Coastal Shorelands: This goal is not applicable to the request.
49. Goal 18: Beaches and Dunes: This goal is not applicable to the request.
50. Goal 19: Ocean Resources: This goal is not applicable to the request.

### **Planning Commission Action**

The planning commission held a public hearing on May 12, 2010 to consider the request to amend the comprehensive plan and zoning maps. Following the public hearing and a discussion



of the applicant's noise mitigation plan, the planning commission recommended that the city council approve the map amendments subject to the following conditions:

1. The driveway entrance to E Jennie Avenue shall be reconfigured to be at least 75 feet from the intersection with Highway 395 as recommended by Kittleson and Associates.
2. All driveway cuts which are proposed for abandonment or consolidation shall be removed at such time that redevelopment occurs on the property. New driveway cuts and those driveway cuts to remain shall be installed or improved to comply with ADA requirements. Those portions of the sidewalk on E Jennie and E Beebe Avenues which are broken or damaged shall be replaced when redevelopment occurs.

Included in the planning commission's recommendation was a request that the city council consider designating the north side of E Jennie Avenue as a no parking zone adjacent to the Les Schwab site. E Jennie Avenue is slightly narrow for the amount of traffic it receives. The applicant's traffic engineer did not recommend any no parking designations, but the planning commission determined it would be a sensible solution to provide for the safe flow of traffic.

#### **Staff Recommendation**

Staff recommends that the city council adopt the proposed map amendments be approved subject to the following conditions:

1. The driveway entrance to E Jennie Avenue shall be reconfigured to be at least 75 feet from the intersection with Highway 395 as recommended by Kittleson and Associates.
2. All driveway cuts which are proposed for abandonment or consolidation shall be removed at such time that redevelopment occurs on the property. New driveway cuts and those driveway cuts to remain shall be installed or improved to comply with ADA requirements. Those portions of the sidewalk on E Jennie and E Beebe Avenues which are broken or damaged shall be replaced when redevelopment occurs.

Staff also recommends that the city council direct staff to research if designating the north side of E Jennie Avenue as a no parking zone is appropriate and report back to the city council.

This map was prepared for Assessment & Taxation purposes only and was NOT prepared nor is it suitable for legal, engineering or surveying purposes

NW1/4 NW1/4 SEC 11 T4N R28E WM  
UMATILLA COUNTY

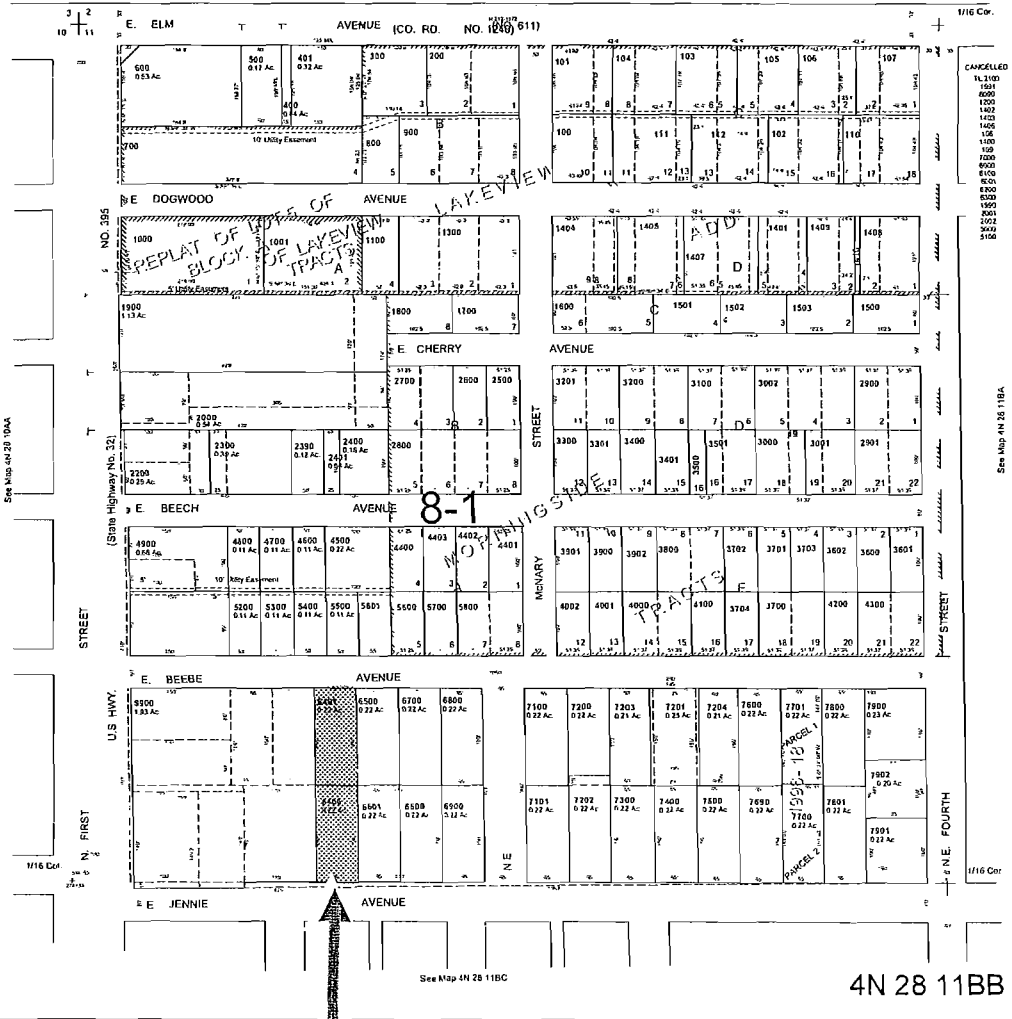
Revised 10/00

4N 28 11BB

AERIAL PHOTO NO. NZ 1P-123

SCALE 1"=100'

See Map 4N 28 2C



Area of Proposed Comprehensive Plan and Zoning Map  
Amendments

4N 28 11BB, Tax Lots 6400 and 6401

Proposed Comprehensive Plan Map Designation

Commercial (C)

Proposed Zoning Map Designation

Outlying Commercial (C-2)

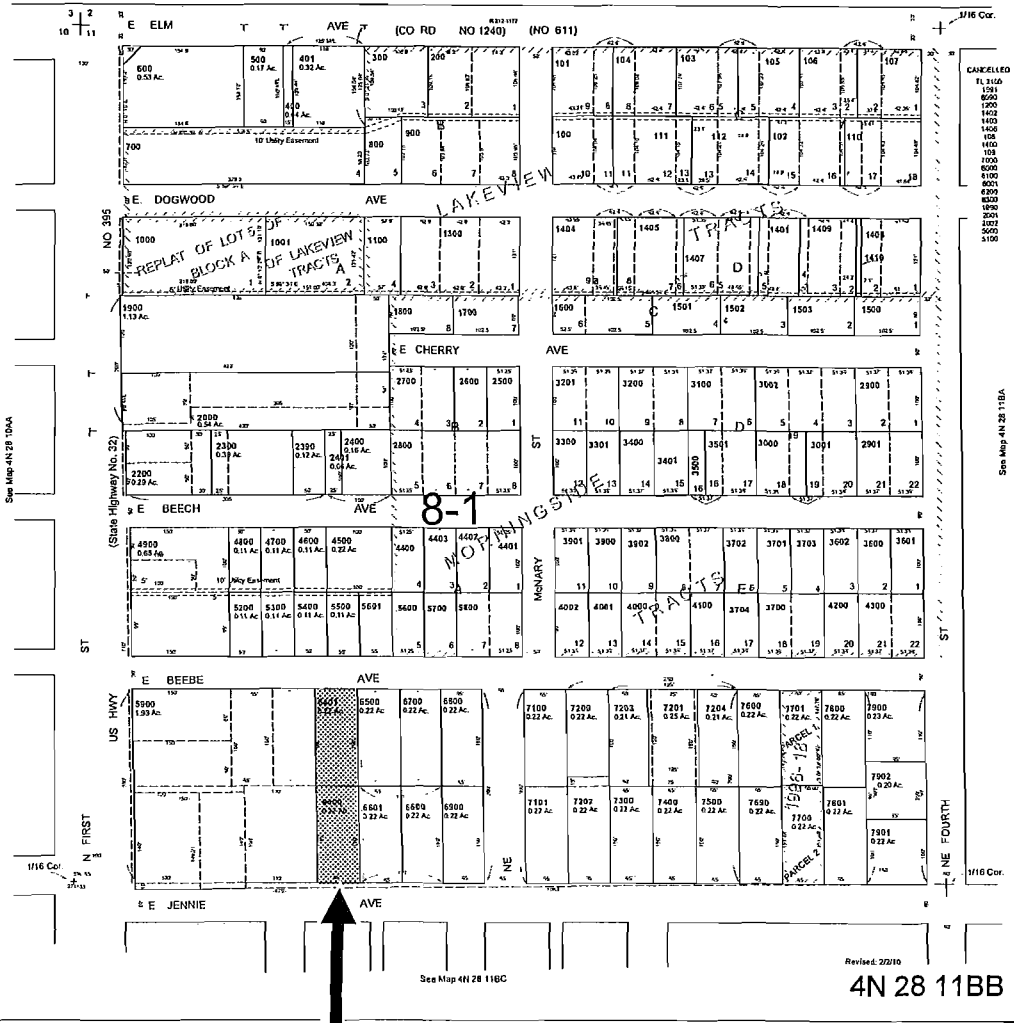
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NW1/4 NW1/4 SEC 11 T4N R28E WM  
UMATILLA COUNTY

4N 28 11BB  
AERIAL PHOTO NO. NZ 1P-123

SCALE 1"=100'

See Map 4N 28 2C



4N 28 11BB Tax Lots 6400, 6401  
Comprehensive Plan & Zoning Maps Amended by Ordinance No. 2165  
Passed May 24, 2010 and Effective 30 days after Enactment

Owner: Schwab Properties Ltd.  
Address: 830 N. 1<sup>st</sup> Street  
Zoning: Outlying Commercial (C-2)  
Comprehensive Plan Designation: Commercial (C)

City of Hermiston  
Planning Department  
180 NE 2<sup>nd</sup> Street  
Hermiston, OR 97838

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PITNEY BOWES  
1731 U.S. POSTAGE P 85532927  
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Attention: Plan Amendment Specialist  
DLCD  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540