



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m. June 10, 2024. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: Marisol Garcia Garcia

LANDOWNER: Sona Athwal, Berulo
Martinez & Marisol Garcia Garcia

FILE NUMBER/TYPE OF REQUEST: PD24-0114; a conditional use permit application for a home occupation pursuant to LCC 929.630(B)(3).

LOCATION OF PROPERTY: The property is located at 36093 Highway 20 SE, Abany, approximately 0.14 miles west of the intersection of Highway 20 and Knox Butte Road and approximately 4.14 miles east of the city of Albany. (T11S, R02W, Section 8B, Tax Lot 1201)

PLAN DESIGNATION/ZONE DESIGNATION: Rural-Residential / Rural Residential Two and a Half Acre Minimum (RR-2.5)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: An application for a conditional use permit for a home occupation. The proposed home occupation will include an office and storage for a general construction and concrete business. The proposed home occupation would be conducted within a proposed accessory structure on the property. Two full-time employee and two part-time employee are proposed year round, additional seasonal employees will not be present on site. The hours of operation are proposed to be 7:00 am to 5:00 pm. The application states that the business will generate two vehicle trips per week and will use the existing shared driveway for access on to Highway 20. The purpose of this notice is to solicit comments and input of surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department can make a final land use decision.

COMMENTS:

BY _____ AGENCY (IF ANY) _____ DATE _____

STAFF CONTACT PERSON: Kate Bentz; (541)967-3816, ext.2368 or kbentz@co.linn.or.us

Table with 3 columns: Linn County, State of Oregon, and Other. Rows include various departments like Sheriff, DEQ, ODOT/OSHD, Schools, etc.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.
2. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

Sections 932.835(B-D) and 933.220(C) of the Linn County Land Development Code (LCC) contain the decision criteria specified for use with this application. LCC Section 934.360 contains home occupation performance standards.

932.835 Home Occupations

- (B) The home occupation shall not unreasonably interfere with other uses permitted in the zone.
- (C) Nothing in this section may be used to permit construction of any structure that would not otherwise be allowed in the zone.
- (D) The existence of home occupations shall not be used as justification for a zoning district change.

933.220 General decision criteria

- (1) The use will be consistent with the affected zoning district's statement of purpose;
- (2) The location, size, design and operating characteristics of the proposed development will be made reasonably compatible with and have minimal impact on the livability and appropriate development of abutting properties and the surrounding neighborhood, with consideration given to
 - (a) scale, bulk, coverage and density;
 - (b) availability of public facilities and utilities;
 - (c) traffic generation and the capacity of the surrounding road network; and
 - (d) other related impacts of the development.
- (3) The proposed development site has the physical characteristics needed to support the use such as, but not limited to the following:
 - (a) access;
 - (b) suitability for on-site, subsurface sewage treatment system;
 - (c) an adequate supply of potable water;
 - (d) location outside of a mapped geologic hazard area or of a 100-year flood plain unless it is demonstrated that the use can be designed and engineered to comply with accepted hazard-mitigation requirements; and
- (4) The use will not have a significant adverse impact on sensitive fish or wildlife habitat.

934.360 Home occupations; performance standards

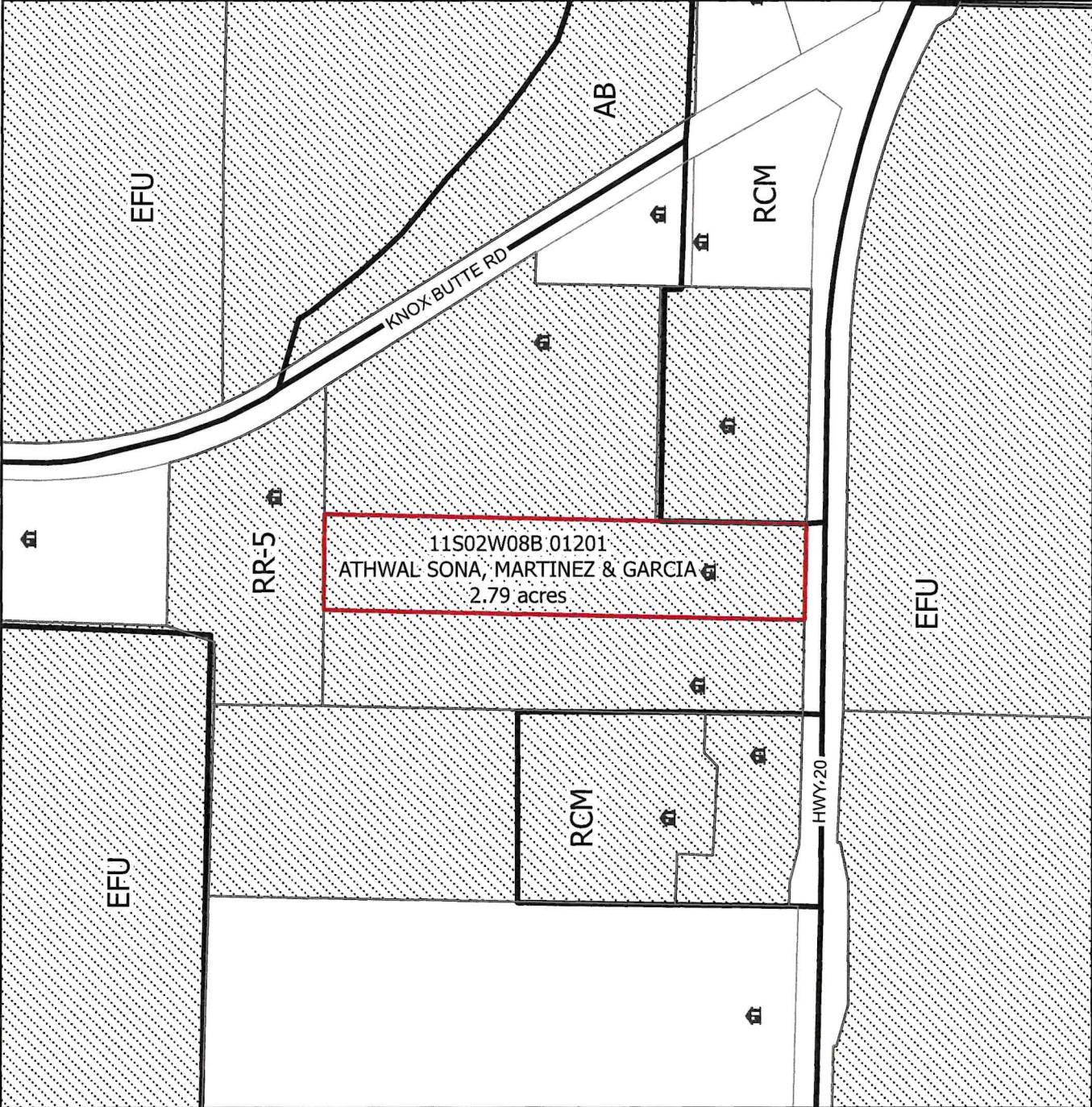
- (A) All home occupations shall be conducted in a manner that complies with the standards of operation set forth in subsection (B).
- (B) *Performance standards.*

- (1) The home occupation will be owned and operated by a resident of the property on which the business is located. An employee may operate the business during the temporary absence of the owner of the home occupation.
 - (2) The home occupation shall employ, on site, no more than five full or part-time persons, including residents of the dwelling.
 - (3) The home occupation will be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district in which the property is located.
 - (4) No modification to a dwelling shall be made that would cause it to resemble anything other than a dwelling.
 - (5) Home occupations shall be limited to the numbers and types of vehicles for use in the operation as set forth in this paragraph. The home occupation is limited to two motor vehicles selected from subparagraph (a), two vehicles from subparagraph (b), and an unlimited number of equipment from subparagraph (c).
 - (a) Motorized vehicles that are designed for travel on public roads or heavy motorized vehicle equipment such as a tractor, caterpillar, or backhoe.
 - (b) Non-motorized vehicles that are drawn by a motorized vehicle that is designed to travel on a public road.
 - (c) Motorized and non-motorized equipment such as lawnmowers, concrete mixers, wheelbarrows.
 - (6) No more than two vehicles at any one time may be repaired, serviced, modified, assembled, or stored on-site for such purpose.
 - (7) The storage of equipment or parts shall be limited to those required for the maintenance, manufacture or repair of products sold, manufactured or repaired by the home occupation. Such storage shall comply with the materials storage requirements listed in LCC 934.130 (D).
 - (8) On-premise sales of merchandise shall be limited to goods manufactured, processed, finished or repaired by the home occupation.
 - (9) On-premise parking areas shall be of sufficient area to accommodate all vehicles associated with the home occupation.
 - (10) The operation or use of equipment or processes resulting in offense or irritation to neighboring residents shall not be permitted.
 - (11) Signs are subject to LCC 934.210 to 934.217.
3. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
 4. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
 5. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
 6. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
 7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity

to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.

8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

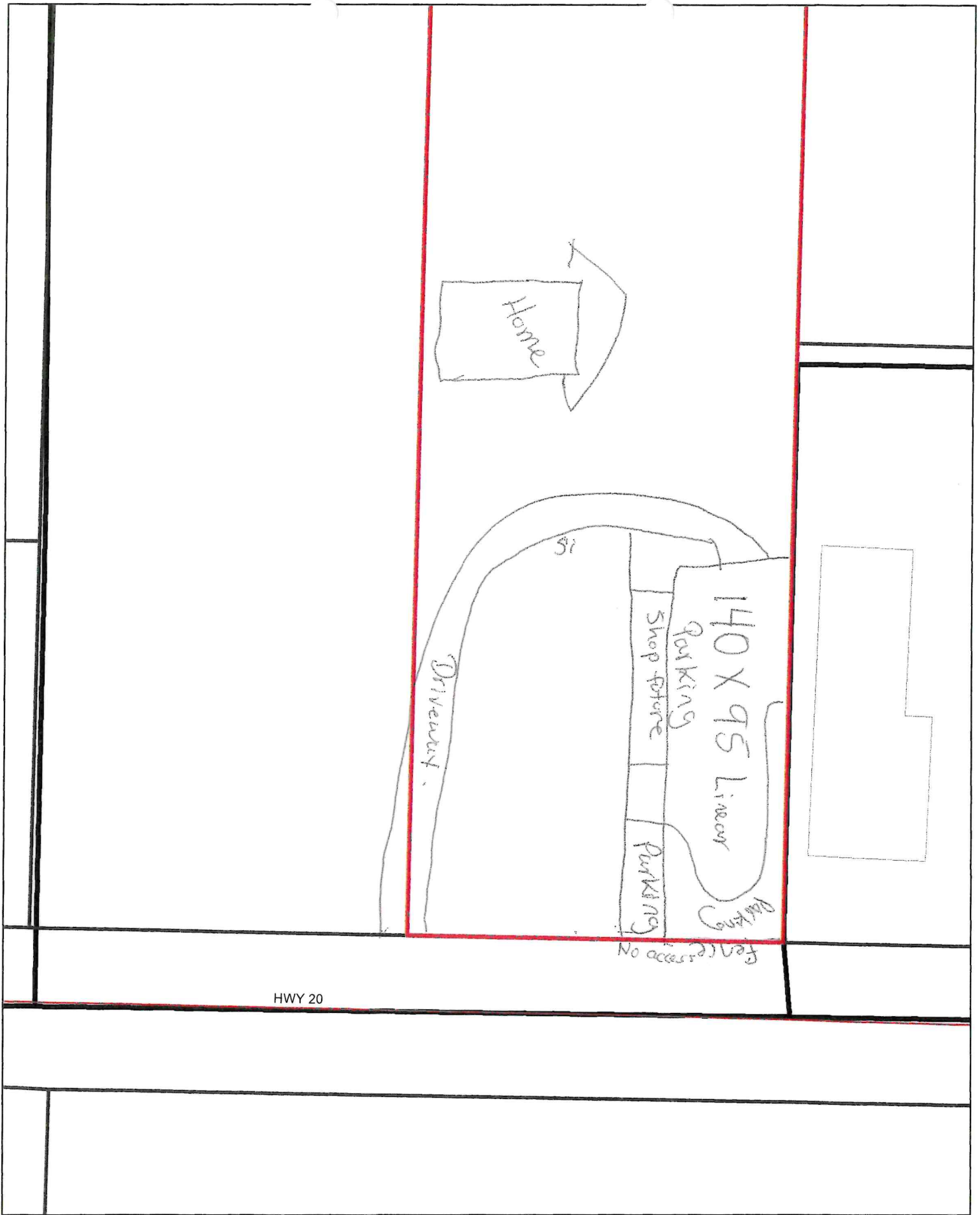
If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.



- Subject Property
- Taxlots
- Zoning Boundaries
- Notice Area

11S02W08B 01201
ATHWAL SONA, MARTINEZ BERULO
& GARCIA GARCIA MARISOL AGTS
36093 HWY 20
ALBANY, OR 97322
2.79 acres





1 inch = 50 feet