

**STAFF REPORT**

**Planning Department File No. 2018-08-018**

**CONDITIONAL USE APPLICATION  
FOR  
MINOR HOME OCCUPATION**

**Planning Commission Meeting Date: September 27, 2018**

1. **APPLICANT:** Skip (Laverne) & Dawn Rathbun  
4441 Casa Rio Dr.  
Ontario, OR 97914  
  
**OWNER OF RECORD:** Same
2. **PROPOSED ACTION:** Conditional Use approval for a Minor Home Occupation to breed mini Dachshunds.
3. **PROPERTY IDENTIFICATION:** Section 21, Tax Lot 6200, T17S, R47E, Assessors Map 17S4721. Malheur County Reference #15633.
4. **PROPERTY LOCATION AND DIRECTIONS:** Off Hwy 201, one mile from Loves truck stop. Left on Casa Rio Dr., house is on the left before the canal.
5. **ZONING:** Rural Residential.
6. **PARENT PARCEL:** The total parcel size is 1.93 acres.
7. **PARCEL USE:** Private Residence.
8. **SURROUNDING USE:** Residential Homes.
9. **ACCESS:** Off Casa Rio Dr.
10. **SANITATION REQUIREMENTS:** Must meet the requirements for Oregon Department of Agriculture's (ODA) Confined Animal Feeding Operation (CAFO).

**GENERAL CONDITIONAL USE CRITERIA**

**MCC 6-6-7 - GENERAL CRITERIA TO EVALUATE SUITABILITY:** In considering the suitability of proposed conditional uses, the Planning Commission shall base its decision upon the following criteria:

- A. Comprehensive Plan goals and policies, as applicable.
- B. Specific plan recommendations
- C. Existing development and viewpoints of property owners in the surrounding area.
- D. Availability of services and utilities.
- E. The effect of the proposed use on the stability of the community's social and economic characteristics.
- F. It does not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the Fish and Wildlife Habitat Protection Plan for Malheur County.
- G. General Criteria
  - 1. Increasing setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances.
  - 2. Landscaping improvements for the visual benefits of the subject site and for the improved appearance of the neighborhood and County.
  - 3. Location and size of driveway access points and right-of-way widening and improvement for present and future traffic circulation and safety.
  - 4. Visual screening of outdoor waste and storage areas.
  - 5. Control and focusing of outdoor lighting to avoid glare being directed beyond property limits.

#### **SPECIFIC CONDITIONAL USE CRITERIA**

#### **MMC 6-6-8-6 - MINOR HOME OCCUPATIONS, HOME OCCUPATIONS, AND HOME BUSINESSES:**

- A. The use:
  - 1. Kennel: A lot or building in which four (4) or more dogs, cats or other animals at least four (4) months of age are kept commercially for board, breeding, training or sale.
  - 2. Does not materially alter the stability of the overall land use pattern of the area.

- B. A Minor Home Occupation: A minor home occupation shall comply with the following standards:
- a. Location: Any zone, not excluded below, in which a minor home occupation is a conditional use.
  - b. Scale: A minor home occupation must fit within the dwelling without expanding the structure or within an existing residential garage or accessory building, and must be incidental to the use of the dwelling as a residence and incidental to the original uses of the residential garage or accessory building.
  - c. Participants: No persons other than family members living on the property shall be engaged in the minor home occupation.
  - d. Character: The property upon which the minor home occupation exists shall be kept in a clean, neat, orderly fashion. There shall be no visible evidence of the conduct of a minor home occupation from outside the property except as otherwise allowed by this section.
  - e. Storage: All materials associated with the minor home occupation shall be contained within the allowed dwelling, garage or accessory building.
  - f. Display: There shall be no display of products visible from outside the allowed dwelling or accessory structure.
  - g. Signs: Notwithstanding chapter 7 of this title, there shall be no signs advertising or identifying the minor home occupation.
  - h. Traffic: Customer, client and/or business traffic shall not exceed five (5) trips per day. Business delivery vehicles shall not exceed gross vehicle weight of eleven thousand (11,000) pounds. U.S. postal service deliveries are exempt from this requirement.
  - i. Parking: Vehicles owned leased or operated by the participants of a minor home occupation shall not be parked or stored on the street or in the public right of way.
  - j. Noise and Other Nuisance Factors:
    - 1. Noise: Noise shall be kept to a minimum at all times, especially between the hours of ten o'clock (10:00) P.M. and eight o'clock (8:00) A.M. Equipment that creates a shrill or penetrating sound shall, at all times, be operated only within an enclosure that effectively prevents noise measured at the nearest dwelling exceeding the otherwise ambient noise level of the neighborhood. Where a question arises regarding noise levels, the planning director's determination shall be final.

2. Odors: Odors shall not be detectable from any boundary of a minor home occupation property at any time.

### **PROPOSED FINDINGS OF FACT**

The applicant has submitted proposed findings of fact in the conditional use application.

### **PROPOSED CONDITIONS OF APPROVAL**

1. This approval is valid for four years from the date of this order. Substantial action must be taken within this time period or the approval will lapse.
2. Applicant must comply with all applicable rules from ODA regarding the operation of a kennel (specifically CAFO rules).

### **EXIHIBITS**

1. Applicant's Conditional Use Application
2. Maps

# Kennels and Protecting Water Quality

## Kennel Wastewater Regulation

Management of kennel wastewater must meet requirements that protect nearby streams and creeks as well as groundwater.

Permits may be required for any discharge of wastewater generated in the daily operation of a kennel, including wastewater that may be relatively clean. Wastewater may be managed in a variety of ways including land irrigation, evaporative ponds or holding tank. Discharge to surface water or groundwater are not allowed.

## Who to contact

Oregon Department of Agriculture (ODA) is responsible for regulating wastewater from kennel operations. Contact ODA to learn about permit requirements and options for managing kennel wastewater. ODA allows the reuse of certain wastewater for irrigation purposes under a Confined Animal Feeding Operation (CAFO) Permit.

Septic systems designed for bathroom and sink wastes from homes and businesses (e.g. domestic sewage) require a separate Department of Environmental Quality (DEQ) permit.

A kennel owner currently using an approved on-site septic system for disposal of kennel wastewater may continue using the installed on-site system as long as it continues to function properly. When the on-site septic system fails by surfacing or discharging to surface water, a kennel owner will work with ODA to properly manage wastewater generated from their kennel operation.

## Wastewater Management

Store wastewater in a holding tank and either use the wastewater to

- irrigate if there is enough land or
- use a hauler to remove the wastewater.

ODA will work with a kennel owner to develop an animal waste management plan for proper management and land application of wastewater. An animal waste management plan must include some basic information such as the amount of wastewater produced.

The animal waste management plan will also include management methods to minimize the amount of wastewater generated.



PUT a PUPPY PICTURE HERE ☺

Kennel owners may also hire a hauler to remove kennel wastewater for irrigation off-site or to take it to licensed sewage disposal facility.

A licensed septage hauler may transport kennel wastewater but the hauler must first receive approval from DEQ to pump non-septage waste.

## How might wastewater affect water quality

Without careful planning, discharges have the potential to leave the property and create a water quality problem. Kennel wastewater contains bacteria, disinfectants, detergents and nutrients. Bacteria found in animal waste can increase the risk of waterborne disease. Nutrients can deplete dissolved oxygen. Less oxygen in streams and creeks can harm fish.

## Cost of a permit

The cost of registering under a CAFO general permit is \$50 for the application fee, plus an annual \$100 compliance fee.

## More information is available

For more information, contact the ODA livestock water quality specialist in your area. Use the map on the next page to determine the ODA contact in your area.

## Alternative formats

Alternative formats of this document can be made available. For more information call 503-229-5696, Portland, or call toll-free in Oregon at 1-800-452-4011, ext. 5696. Hearing-impaired persons may call 711.



**Oregon**  
Department  
of Agriculture

## Natural Resources and Pesticides Division

635 Capitol St. NE  
Salem, OR 97301-2532  
Phone: (503) 986-4792  
Fax: (503) 986-4730  
Contact: Wym Matthews  
[www.oregon.gov/ODA](http://www.oregon.gov/ODA)



State of Oregon  
Department of  
Environmental  
Quality

## Water Quality Permits and Program Development

811 SW 6<sup>th</sup> Avenue  
Portland, OR 97204  
Phone: 503-229-6402  
800-452-4011  
Fax: 503-229-6037  
Contact: Beth Moore  
[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

## Onsite Wastewater Management Program

165 East 7th Avenue, Suite 100  
Eugene, OR 97401  
Contact: Randy Trox  
541-687-7338

August 27, 2018

Skip (Laverne) & Dawn Rathbun  
4441 Casa Rio Drive / P.O. Box 1029  
Ontario, OR 97914  
208-550-0496

To: Planning Commission,

I want to breed miniature Dachshund's in our home. We have a room set up for them with cages that they sleep in at night, food, water, a bathing sink and grooming table along with supplies. They sleep inside the house and are out in the back yard during the day; it is completely fenced off and there is also a fence around our property. We have cement work in the back yard which is pressure washed every two days to keep clean. We have four breeding females and three males; we sell all of our puppies online and fly them to their new homes out of Boise Cargo.

We don't have any buildings outside for breeding; it is all done inside the house. We have never had a neighbor complain about barking or smells or anything. Everything inside and out is kept as clean as possible; we don't have any traffic or vehicles coming to our house and no signs outside. My husband and I are the only ones doing the dog breeding and selling online.

Thank you,

Dawn Rathbun



# MALHEUR COUNTY GENERAL APPLICATION & REPORT FORM

Planning Department  
Malheur County, Oregon

Class of application: Conditional Use Permit for  
a Kennel / Minor Home Occupation

Petition No.: 2018-08-018

Parcel Identification:

Tax Lot No. 6200

Section: 21

Twp: 17 S.

Range: 47 E.W.M.

State: OR Zip: 97914

PLEASE TYPE OR PRINT CLEARLY

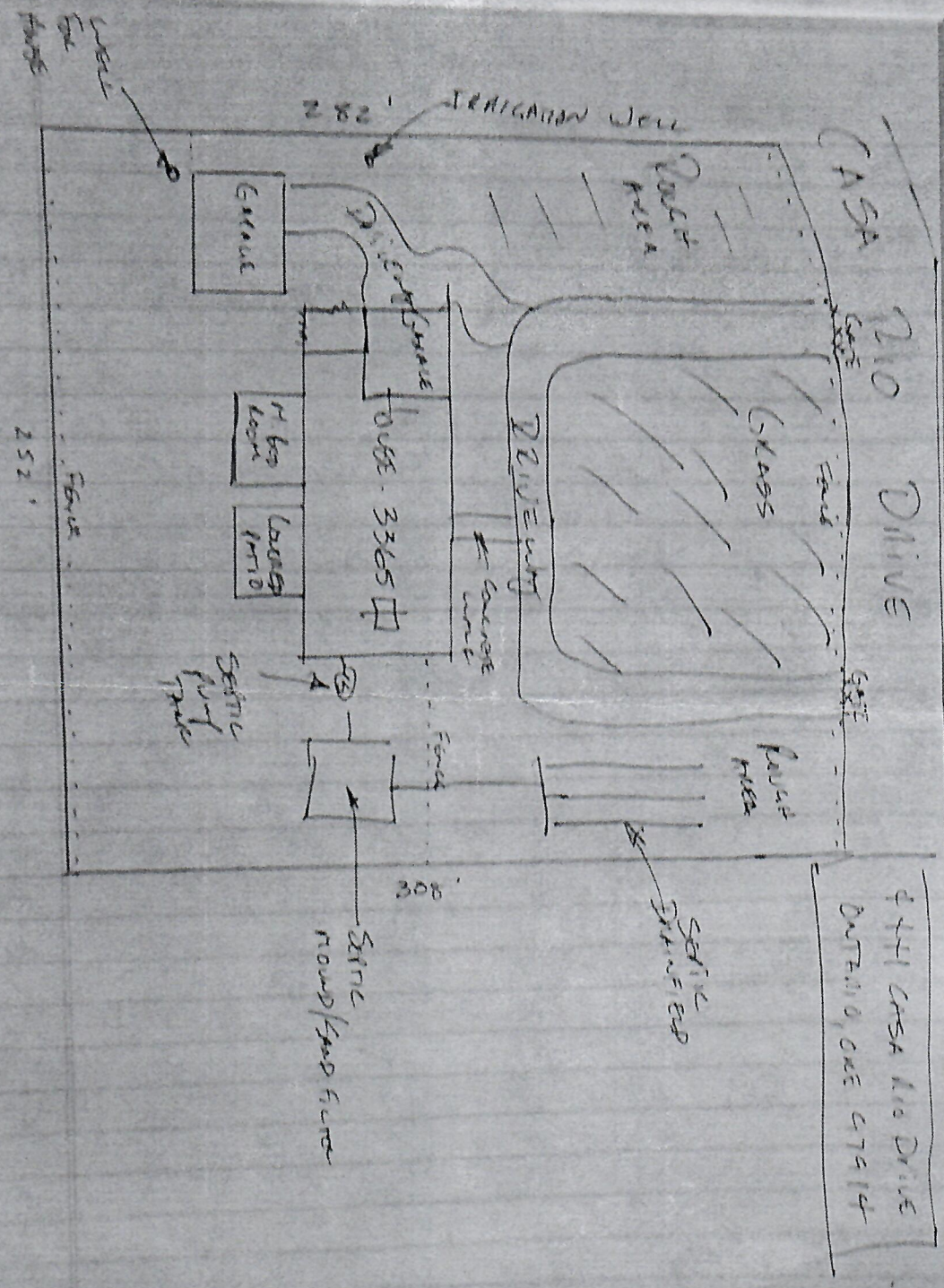
1. Property Owner-Applicant:  
Name: Laverne & Dawn Rathbun  
Street Address: 4441 Casa Rio Dr. City: Ontario State: OR Zip: 97914  
Phone: 208-550-0496
2. Owner's representative (if other than owner)  
Name: NA  
Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_
- Interest in Property: Breeding mini Dachshund (-home Buisness)
3. Date property was acquired by present owner: 2006
4. Directions to the site involved: off of highway 201, one mile from Lanes
5. Zone Classification: C-RR left on casa rio dr. house on left (4441) before  
Canal.
6. Land area: Of total ownership: 1.93 acres Of proposal: 1.93 acres
7. Proposed use(s) of the site and facilities: Breeding mini Dachshunds
8. Current use(s) of the site and facilities: B: Home site
9. Location of nearby features of interest (canal, bluff, airstrip, etc.): Canal next to us, field
10. Surrounding uses of land and facilities (N., S., E., W.): Behind us - farms - & Houses  
Houses + farm & fields

Dawn Rathbun

Signature

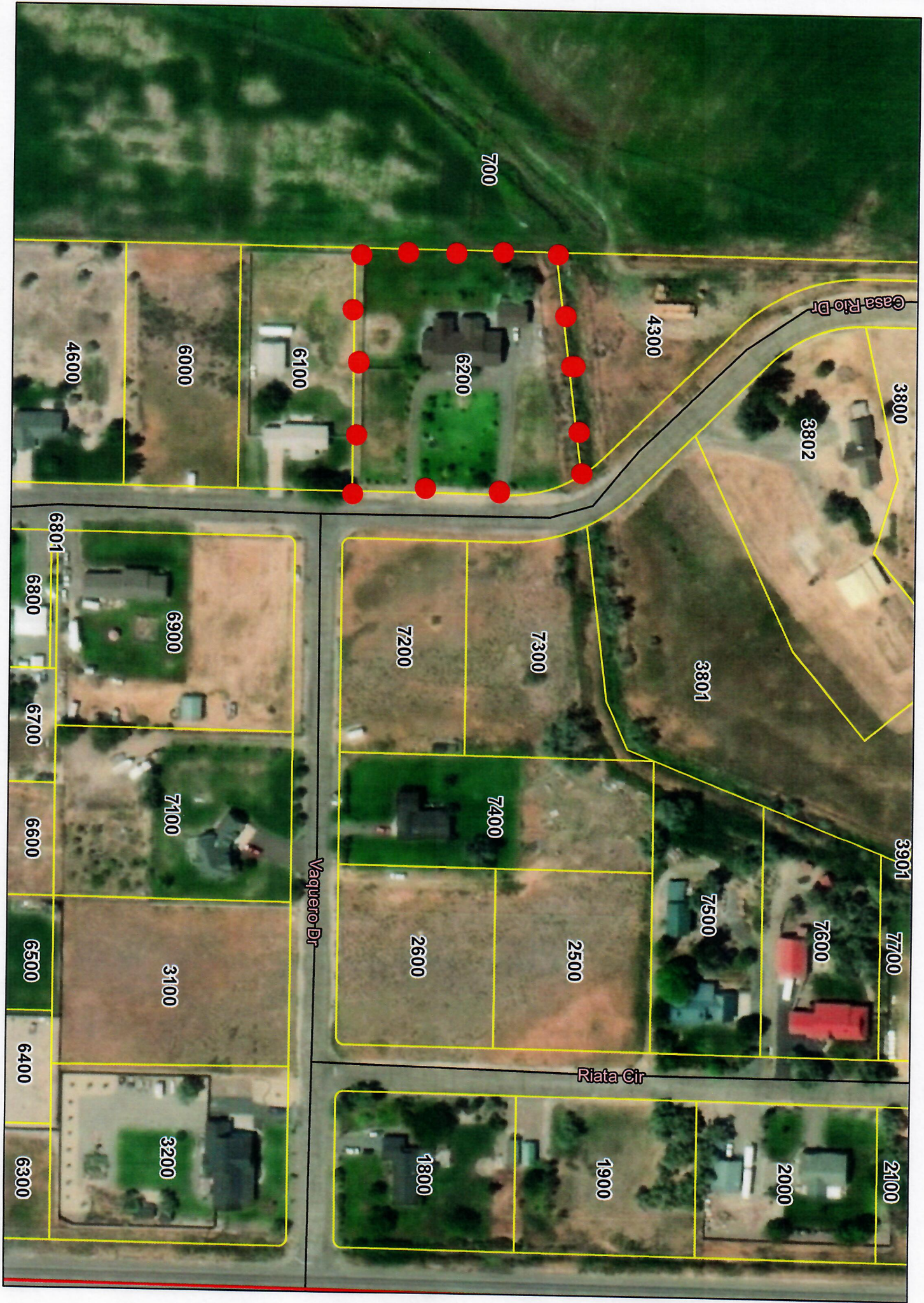
8-27-18

Date



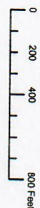
441 CASA RIO DRIVE  
 BUTLAND, ORE 97614



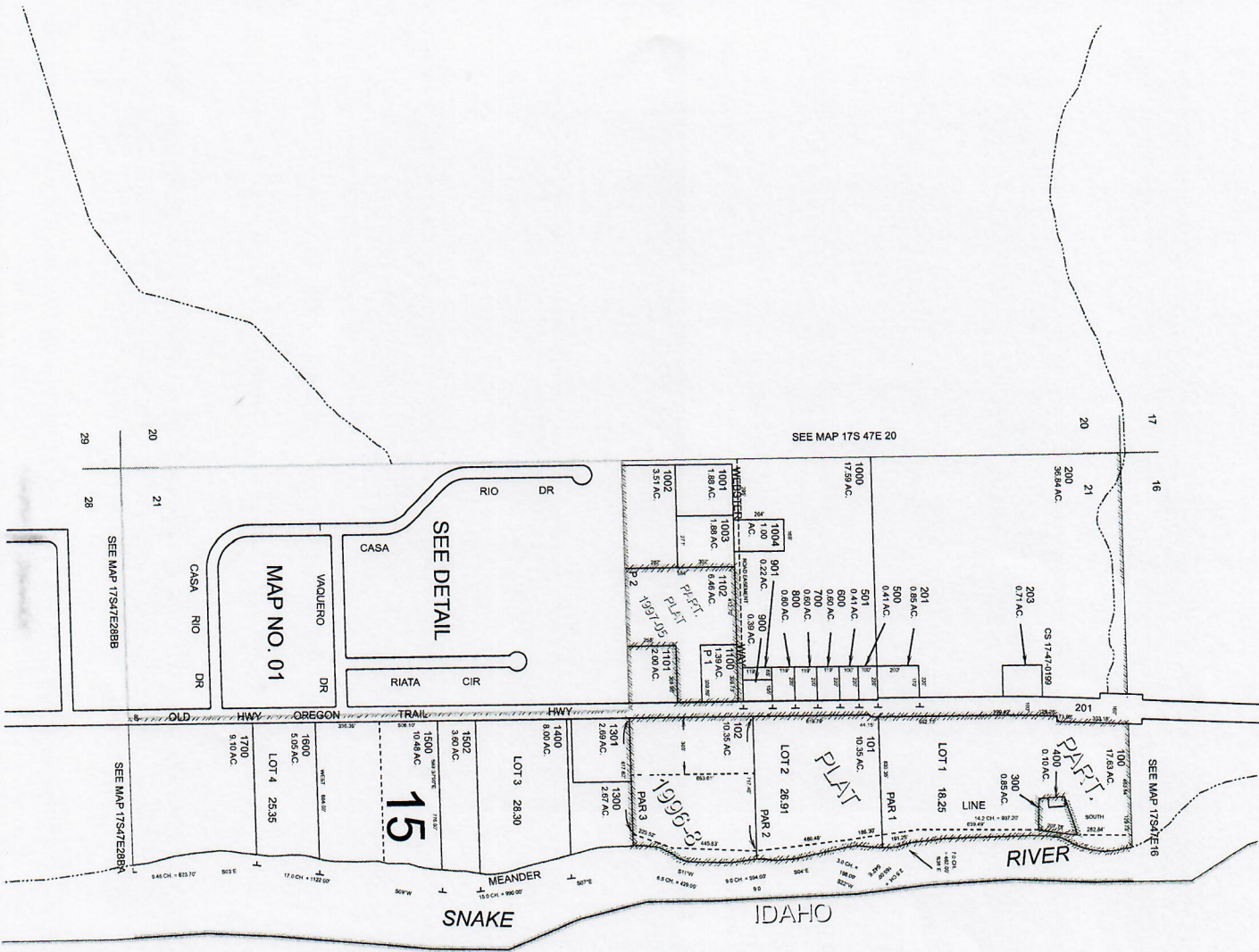


Map is prepared for assessment purposes only

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY



SECTION 21 T. 17S. R. 47E. W.M.  
MALHEUR COUNTY  
1" = 400'



17S47E21  
& INDEX  
CANCELLED:  
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7001

8/30/18

9:39

REAL PROPERTY

INQUIRY

TN

A10100

REF # 2018 R 15633

Last Viewd 20121

MAP# 17S4721 LOT# 6200 A NUM 15 CODE PCL MCL AP VA ZONE C-RR

PAR# %.xxxx REAL# PR

OWNER RATHBUN, LAVERNE JR & DAWN

ET ALS

CNTRCT ADDR Pg 1

4441 CASA RIO DR

CTY/ST ONTARIO, OR 97914

SC DEF SITUS: ONTARIO

SITUS: 4441 CASA RIO DR

HOME ID:

YR AP 2018 APPR 28 ANGELENE MENDEZ

ACRES 1.93 SPC ASM

RMV M5 VALUE TOTAL AV

ACTION CDS MAPCODE 0015

NEW CONSTRUCTION

NEW CONSTRUCTION

NEW CONSTRUCTION

+

NOTES

PHOTO# 378-277L

LAND IMPROV SUBTOT

LESS EXEMPTIONS:

LESS VET EXEMPT:

NET VALUES:

1-KEY 2-IMP 3-LND 7-EOJ 8-CLR 9-BACK 10-FORWARD 17-JV/TL 22-SALES 23-TAX INQ