

ORDINANCE NO. 1496

AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 9.99 ACRES INCLUDING 9.69 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOTS 3100, 3200, AND 3201 OF PORTION OF SE ¼, SEC. 28, T.3S., R.1E., W.M. (TAX MAP 31E28DD); AND APPROX. 0.30 ACRES OF ADJACENT N PINE STREET RIGHT-OF-WAY; AND AMENDING THE EXISTING COUNTY ZONING FROM RURAL RESIDENTIAL FARM FOREST FIVE ACRE (RRFF-5) TO CITY LOW DENSITY RESIDENTIAL (R-1) FOR THE ENTIRE AREA; AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CANBY CITY LIMITS.

WHEREAS, on October 17, 2018, at a public hearing the City Council of the City of Canby approved by a vote of 6 to 0, Annexation (ANN/ZC 18-03) which called for the annexation of 9.99 acres into the City of Canby. The applicant is ICON Construction and Development, LLC with CNS Acres, LLC as owner of Tax Lot 3100 and 3200 of Tax Map 31E28DD and Scott Vandecoevering as owner of Tax Lot 3201 of Tax Map 31E28DD. A complete legal description and survey map of the real property and adjacent N Pine Street right-of-way to be annexed is attached hereto as Exhibit A & B respectively and by this reference are incorporated herein; and

WHEREAS, Pursuant to CMC 16.84.080, the City must proclaim by ordinance or resolution, the annexation of said property into the City and set the boundaries of the property by legal description; and

WHEREAS, the zoning of the annexed land shall be designated as R-1 Low Density Residential to conform with the Canby Comprehensive Plan Map, and such zoning shall be indicated on the official zoning map for the City of Canby; and

WHEREAS, an application was filed with the City by the applicant listed above to change the zoning of three parcels as indicated herein along with one-half of the adjacent road right-of-way where the applicable R-1 Low Density Residential zoning will also apply; and

WHEREAS, a public hearing was conducted by the Canby Planning Commission on September 24, 2018 after public notices were mailed, posted and published in the Canby Herald, as required by law; and

WHEREAS, the Canby Planning Commission heard and considered testimony regarding the annexation and accompanying zone change required for annexations by Figure 16.84.040 of Chapter 16.84 of the Land Development and Planning Ordinance at the public hearing and at the conclusion of the public hearing; the Planning Commission voted to recommend that the City Council approve the applications.

The Planning Commission written Findings, Conclusions and Order was approved with acknowledgement of the accompanying Annexation Development Agreement to memorialize

provisions to apply to the eventual residential development subdivision to be submitted for future development of the property; and

WHEREAS, the Canby City Council considered the matter and the recommendation of the Planning Commission following a public hearing held at its regular meeting on October 17, 2018; and

WHEREAS, the Canby City Council, after considering the applicant's submittal, the staff report, the Planning Commission's hearing record and their recommendation documented in their written Findings, Conclusions and Order and after conducting its own public hearing; voted to approve the annexation and associated zoning designation for the properties.

WHEREAS, the written Findings, Conclusions and Order of the Council action is to be approved by the City Council at the next regular Council meeting on November 7, 2018; and

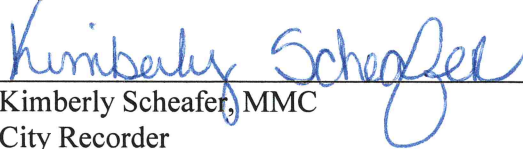
NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. It is hereby proclaimed by the City Council of Canby that 9.99 acres of property described, set, and shown in Exhibit A & B and attached hereto, is annexed into the corporate limits of the City of Canby, Oregon.

Section 2. The annexed land shall be rezoned from the county Rural Residential Farm Forest (RRFF-5) to city Low Density Residential (R-1) as reflected on the Canby's Comprehensive Plan Map and as indicated by Tax Lot and legal description and survey in this Ordinance. The Mayor, attested by the City Recorder, is hereby authorized and directed to have the zone change made to the official zoning map for the City of Canby.

Section 3. The City Council hereby approves the Development Agreement by and between the City of Canby and Applicants, attached hereto as Exhibit C to this ordinance for which the City Administrator is hereby authorized and directed to sign the final Development Agreement at which time the "Applicant" is hereby authorized to record the signed Development Agreement with the official records of Clackamas County within seven (7) calendar days from the 2nd reading of this ordinance.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 17, 2018, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, November 7, 2018, commencing at the hour of 7:00 p.m. in the Council Meeting Chambers located at 222 NW 2nd Avenue, 1st Floor, Canby, Oregon.



Kimberly Scheafer, MMC
City Recorder

PASSED on the second and final reading by the Canby City Council at a regular meeting thereof on November 7, 2018 by the following vote:

YEAS 5

NAYS 0



Brian Hodson
Mayor

ATTEST:



Kimberly Scheafer, MMC
City Recorder



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

Exhibit "A"
Annexation
Legal Description

A Tract of land being a portion of Lots 62 and 63, "Canby Gardens", Plat No. 230, Plat Records of Clackamas County, located in the Southeast one-quarter of Section 28, Township 3 South, Range 1 East of the Willamette Meridian, City of Canby, County of Clackamas, State of Oregon, being more particularly described as follows:

BEGINNING at a 5/8" iron rod with a red plastic cap marked "Centerline Concepts" found at the southeast corner of "Caitlyns Place" (Plat No. 4488), Plat Records of Clackamas County; thence along the east line of said "Caitlyns Place", and continuing along the west lines of said Lots 62 and 63, North 00°00'23" East, 659.92 feet to the southwest corner of Lot 61 of said "Canby Gardens"; thence along the south line of said Lot 61, South 89°58'56" East, 660.00 feet to the southeast corner thereof; thence along the centerline of N. Pine Street (County Road No. 2580), being 20.00 feet east of the west right of way line thereof when measured at right angles, being coincident with the east line of said Lots 62 and 63 of said "Canby Gardens", South 00°00'46" East, 659.80 feet to the southeast corner of said Lot 63; thence along the south line of said Lot 63, being coincident with the north line of "Amrine Addition" (Plat No. 1752), Plat Records of Clackamas County, North 89°59'34" West, 660.22 feet to the **POINT OF BEGINNING**.

Contains 435,582 square feet.

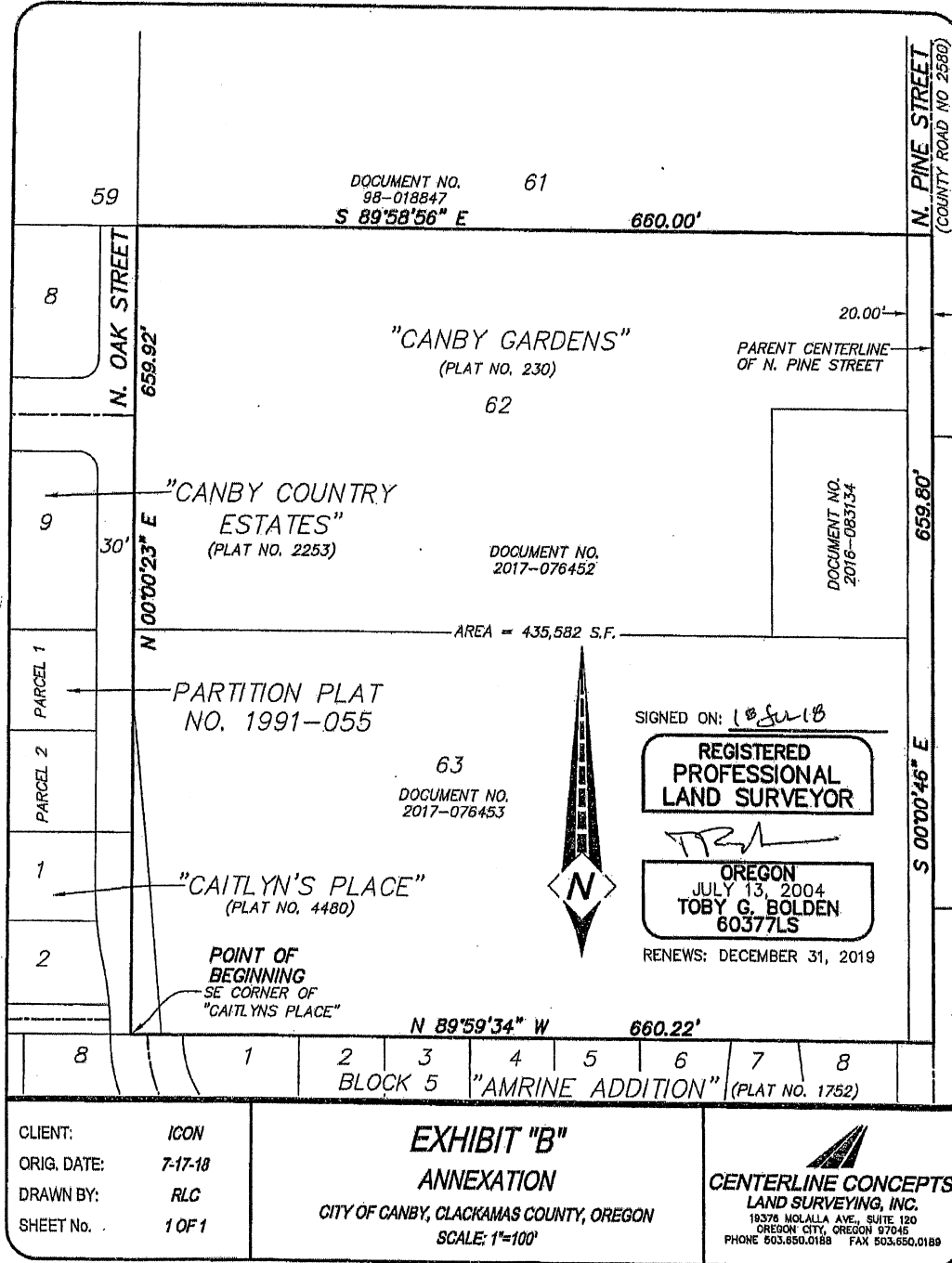
185418

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: 3 (DE 0)

EXHIBIT "B"



372 ARCO
This instrument filed for record by LEX/
Fidelity National Title as an accommodation
only. It has not been examined as to its
execution or as to its effect upon the title.

AFTER RECORDING RETURN TO:
Attn: City Recorder
City of Canby
P O Box 930
Canby OR 97013

UNTIL REQUESTED OTHERWISE,
SEND TAX STATEMENTS TO:

CNS Acres, LLC
9925 S. Carriage Lane
Canby, OR 97013

Scott Vandecoevering
1575 N. Pine Street
Canby, OR 97013

Clackamas County Official Records
Sherry Hall, County Clerk

2018-069405

11/14/2018 02:05:00 PM

D-DEVA Cnt=1 Stn=7 BARBARA
\$35.00 \$16.00 \$10.00 \$62.00

\$123.00

DEVELOPMENT AGREEMENT (ANNEXATION)

RECITALS:

1. CNS Acres, LLC and Scott Vandecoevering hereinafter referred to as "APPLICANTS", own real property commonly described as 1467 and 1575 N Pine Street, Canby, OR 97013 and more particularly described in the attached Exhibit A and depicted on a survey attached as Exhibit B.
2. The City of Canby, hereinafter referred to as "CANBY", is an Oregon municipal corporation.
3. The property described in Exhibit A and depicted on Exhibit B is located within the boundaries of a designated annexation "Development Agreement Area" as shown on the City of Canby Annexation Development Map (City of Canby Municipal Code Title 16, Figure 16.84.040).
4. CANBY procedures for annexation specify the Planning Commission shall conduct a public hearing to review any proposed annexations and determine the appropriate zoning designation upon annexation. The Planning Commission shall furnish its recommendation concerning annexation and assigned zoning to the City Council. The City Council will determine whether the applicable standards and criteria of Canby Municipal Code 16.84.040 are met and will determine appropriate zoning for the property based on the criteria set forth in the Canby Municipal Code 16.54.040.
5. The purpose of this Annexation Development Agreement is to satisfy the requirements of Canby Municipal Code 16.84.040 including providing adequate public information and information evaluating the physical, environmental, and related social effects of a proposed annexation. The proposed annexation does not require the statutory development agreement of ORS 94.504 et seq.

NOW, THEREFORE, it is hereby agreed:

I. CANBY MUNICIPAL CODE 16.84.040 APPLICABLE PROVISIONS.

A. Timing of the submittal of an application for zoning. Concurrent with review of this Agreement, the Council shall consider APPLICANTS' annexation application and requests that, upon approval of the annexation by the City Council, the property described in Exhibit A shall be zoned R-1. This approach will insure that the development agreement as well as the annexation and zone change approvals are consistent with City Code 16.84.

B. Scope of annexation request. In addition to the property owned by APPLICANTS and described in Exhibit A, APPLICANTS' annexation application shall include the western portion of the N Pine Street right-of-way and the eastern portion of the N. Oak Street right-of-way that are presently outside of the city limits and adjacent to the APPLICANTS' property. The western portion of the N Pine Street right-of-way and eastern portion of the N. Oak Street right-of-way shall be as described in Exhibit A and depicted on Exhibit B. APPLICANTS agree to dedicate street right-of-way for N Pine Street and N. Oak Street to meet the standards of the City of Canby with future land use actions on the property as part of the development approval process.

C. Timing for Recording. APPLICANTS shall have seven (7) calendar days from the date the City Council takes final action approving this Agreement, the annexation, the zone change request, to record this Agreement. A condition of approval will be attached to the annexation and zone change approval imposing this requirement.

D. Dedication of land for future public facilities including park and open space land. At the time of development, APPLICANTS agree to dedicate street right-of-way for N. Pine Street, N. Oak Street and for other streets being created inside the property to the standards of the City of Canby and to satisfy CANBY's parkland dedication obligation through payment of the City's park system development charge.

E. Street construction/layouts, utilities, right of ways/dedications, and lots. At the time of development, City required public street improvements will be constructed to Canby Municipal Code specifications by APPLICANTS. Specifically, APPLICANTS agree to improve the western one-half of the N Pine Street and eastern one-half of the N. Oak Street rights-of-way along the frontage of the property. APPLICANTS will also be responsible for the dedication and construction of new street within APPLICANTS' property to Canby Municipal Code specification. Street cross section layouts, public utilities, franchise utilities, and right-of-way-widths/associated dedications will be determined at the time of development in conformance with the Canby Municipal Code and Canby Public Works Design Standards. The submitted Conceptual Site Plan A, dated July, 2018, in conjunction with the ANN/ZC 18-03 applications is for general reference only and is non-binding. Lot sizes and layouts will be determined at the time of development and are contingent upon street cross sections and right-of-way widths.

F. Utility availability. At the time of development, APPLICANTS agree to ensure that utilities and infrastructure are available to serve the property described in Exhibit A at densities currently authorized in the R-1 zone. To the extent that additional utility or service infrastructure is required to serve the property in the future, APPLICANTS agree to provide

those utilities and services in a way that is commensurate with the impacts from development and consistent with the City's Code. APPLICANTS also agree to allow connection to APPLICANTS' constructed public facilities by adjacent property owners.

G. Water and Sewer. At the time of development, APPLICANTS agree to install public waterlines in all new or extended public streets and sewer lines in new City streets as is needed to serve the development. CANBY agrees that APPLICANTS can connect to the public water system and that APPLICANTS can connect the existing public sanitary sewer. CANBY agrees that no new sewer main is needed in N. Pine Street along the frontage of the APPLICANTS' properties.

H. Waiver of compensation claims. APPLICANTS waive compensation or waiver of land use regulations as provided in ORS 195.300 and 195.336, as well as Measure 49, resulting from annexation and the concurrent zone change approval.

I. Rough proportionality of future exactions. To the extent that this agreement identifies right-of-way dedication, utility or service obligations, these obligations are necessary and will be limited to an amount necessary to serve this development based on the proposed development application as well as on the uses and densities permitted in the R-1 zone.

J. Other commitments deemed valuable to the City of Canby. APPLICANTS agree any future development will meet the requirements of the adopted CANBY Municipal Code in effect at the time of development.

II. OTHER CONSIDERATIONS.

A. Duration. This Agreement shall be effective upon CANBY, acting by and through its city council, approving this Agreement and upon its recording with the Clackamas County Recording Office. As used herein, "approval" means the granting of the approval and the expiration of the period of appeal, or if appeal is filed, the resolution of that appeal. This Agreement shall continue in effect for a period of eight (8) years after its effective date unless cancelled as provided in Section II, C below

B. Recording. Within seven (7) calendar days after the City Council makes a final decision approving ANN/ZC 18-03, APPLICANTS shall record this agreement with the Clackamas County Recorder's Office and provide a copy of the recorded agreement to the City Attorney.

C. Cancellation. This Development Agreement shall not be cancelled.

D. Modification. This Agreement may be modified, amended, or extended upon the mutual consent of APPLICANTS and CANBY.

Dated this 12 day of November, 2018.

Carolyn R. Adkins
CNS Acres, LLC member

Scott Vandecoevering
Scott Vandecoevering

CITY OF CANBY, OREGON

By: [Signature]
Richard Robinson, City Administrator

Dated: 11/8/2018

APPROVED AS TO FORM:

By: [Signature]
Joseph Lindsay, City Attorney

Dated: 11/7/18

APPROVED BY ACTION OF THE CANBY CITY COUNCIL ON November 7, 2018 and Adopted by Ordinance 1496.

STATE OF OREGON)
) ss.
County of Clackamas)

November 12, 2018

Personally appeared before me, CNS Acres, LLC, and acknowledged the foregoing instrument to be his voluntary act and deed.



Jennie K Engen-Lucas
Notary Public for Oregon
My Commission Expires: March 19, 2019

STATE OF OREGON)
) ss.
County of Clackamas)

November 12, 2018

Personally appeared before me, Scott Vandecoevering, and acknowledged the foregoing instrument to be his voluntary act and deed.

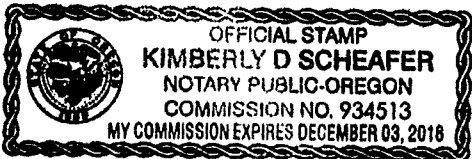


Jennie K Engen-Lucas
Notary Public for Oregon
My Commission Expires: March 19, 2019

STATE OF OREGON)
) ss.
County of Clackamas)

November 8, 2018

Personally appeared before me, RICHARD ROBINSON, as the City Administrator of the City of Canby, Oregon.



Kimberly D. Scheaffer
Notary Public for Oregon
My Commission Expires: 12-3-2018



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

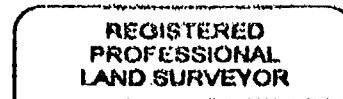
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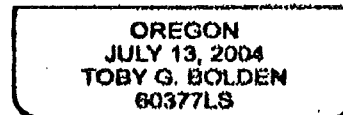
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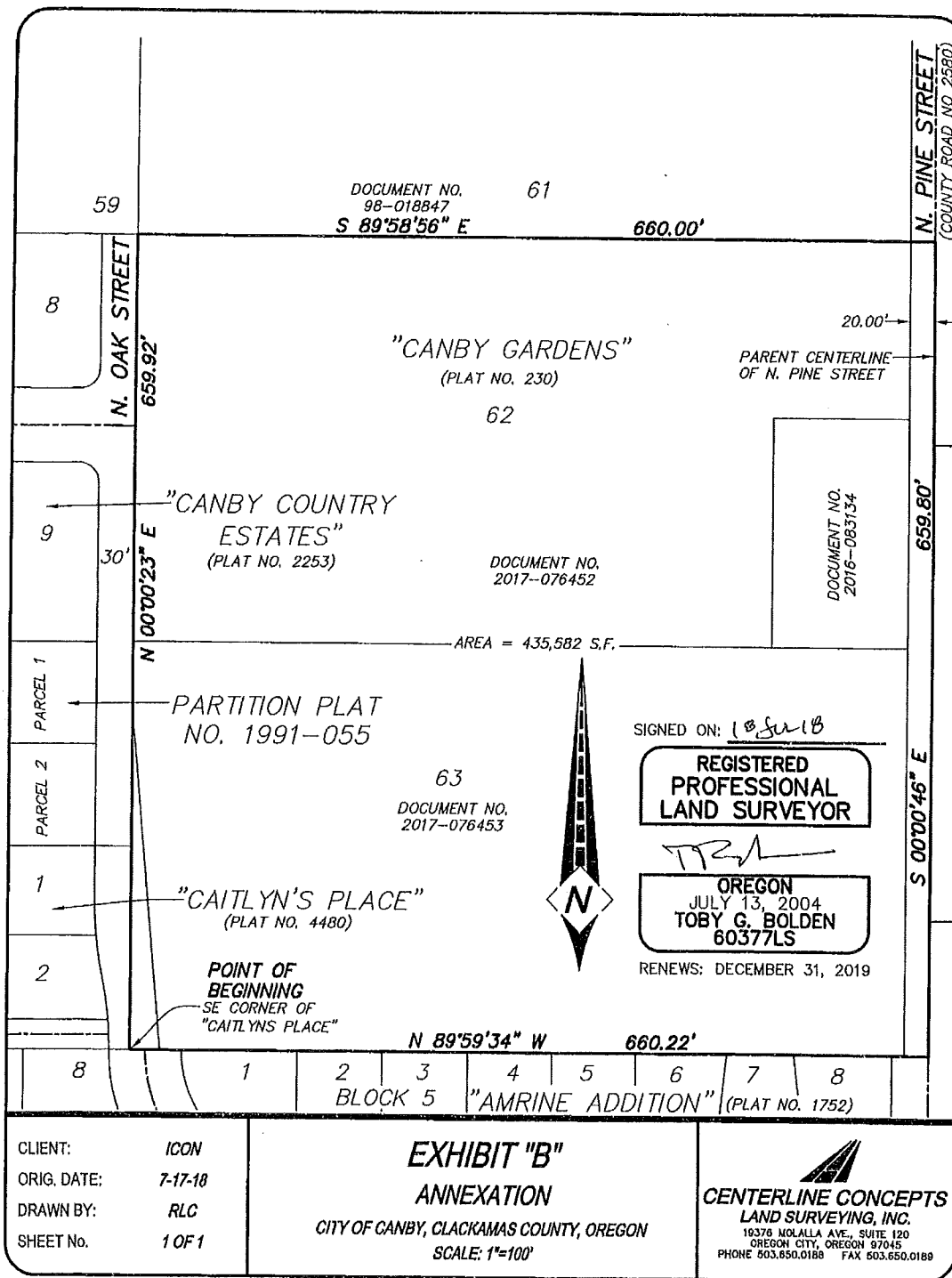


Toby G. Bolden



RENEWS: 3 (DEC 0)

EXHIBIT "B"



Plotted: 7/18/2018 - 10:56am, M:\PROJECTS\ICON-PINE ST-N-1467\dwg\ANNEXATION.dwg, Layout: LAYOUT