

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER RELATING TO THE ROGER J. & ANN M. MIRACLE CLAIM FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

) Resolution No. 06-3706
)
) Introduced by Chief Operating Officer Michael Jordan with the concurrence of Council President David Bragdon

WHEREAS, Roger J. and Ann M. Miracle filed a claim for compensation under ORS 197.352 (Measure 37) contending that Metro regulations had reduced the fair market value of property they own in the city of Damascus; and

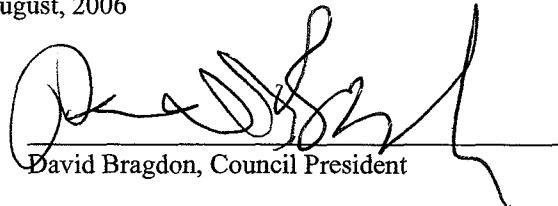
WHEREAS, the Chief Operating Officer reviewed the claim and submitted reports to the Metro Council, pursuant to section 2.21.040 of the Metro Code, recommending denial of the code for the reason that the Metro regulation that is the basis for the claim did not reduce the fair market value of the claimants' property; and

WHEREAS, the Metro Council held a public hearing on the claim on August 17, 2006, and considered information presented at the hearing; now, therefore

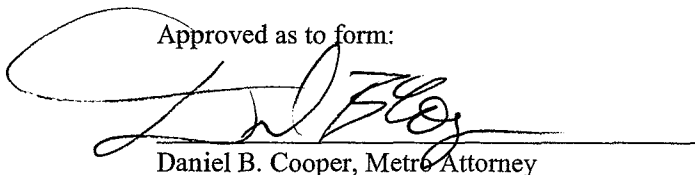
BE IT RESOLVED that the Metro Council

1. Enters Order 06-004, attached to this resolution as Exhibit A, which denies the claim for compensation.
2. Directs the Chief Operating Officer ("COO") to send a copy of Order No. 06-004, with Exhibit A attached, to the claimants, persons who participated in the public hearing on the claim, Clackamas County and the Oregon Department of Administrative Services. The COO shall also post the order and Exhibit A at the Metro website.

ADOPTED by the Metro Council this 17th day of August, 2006


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

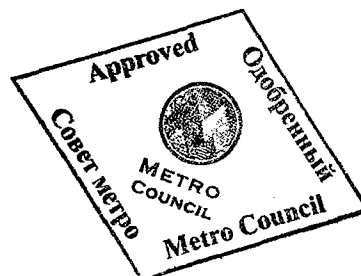


Exhibit A to Resolution No. 06-3706

Order No. 06-004

RELATING TO THE ROGER J. & ANN M. MIRACLE CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimants: Roger J. and Ann M. Miracle

Property: 9390 SE Kingswood Way, Damascus, Oregon;
Township 1S, Range 3E, Section 27A, Tax Lot 201 (map attached)

Claim: Temporary 20-acre minimum size for creation of new lots and parcels in Title 11 of the Urban Growth Management Functional Plan has reduced the value of the claimant's land.

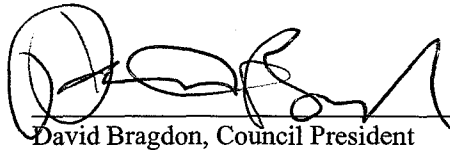
Claimants submitted the claim to Metro pursuant to ORS 197.352 (Measure 37). This order is based upon materials submitted by the claimants and the reports prepared by the Chief Operating Officer ("COO") prepared pursuant to section 2.21.040.

The Metro Council considered the claim at a public hearing on August 17, 2006.

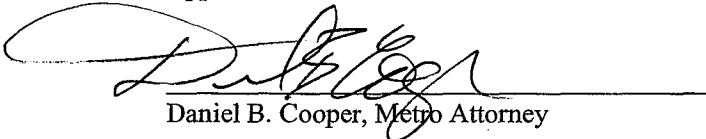
IT IS ORDERED THAT:

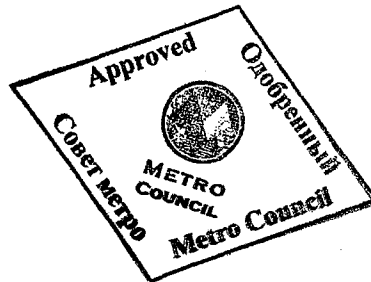
The claim of Roger J. and Ann M. Miracle for compensation be denied because it does not qualify for compensation for reasons set forth in the reports of the COO.

ENTERED this 17th day of August, 2006.


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney



**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 37
AND METRO CODE CHAPTER 2.21**

REVISED REPORT OF THE METRO CHIEF OPERATING OFFICER

**In Consideration of Council Order No. 06-004
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of Roger and Ann Miracle**

August 2, 2006

METRO CLAIM NUMBER:	Claim No. 06-004
NAME OF CLAIMANT:	Roger and Ann Miracle
MAILING ADDRESS:	Barton C. Bobbitt Attorney at Law 4380 SW Macadam Avenue, Suite #500 Portland, OR 97239-6412
PROPERTY LOCATION:	9390 SE Kingswood Way, Damascus, Clackamas County, Oregon
LEGAL DESCRIPTION:	T1S R3E Section 27A Tax Lot 201
DATE OF CLAIM:	February 1, 2006

I. CLAIM

Claimants Roger and Ann Miracle seek compensation in the amount of \$2,400,000 for a claimed reduction in fair market value of property owned by the claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11. In lieu of compensation, claimant seeks a waiver of that regulation so claimant can apply to the City of Damascus to divide the 11.34-acre subject property into lots of at least one acre and to allow a single family dwelling to be developed on each lot that does not already contain a dwelling. The subject property is currently undeveloped.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on May 19, 2006. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at www.metro-region.org.

II. SUMMARY OF COO RECOMMENDATION

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that Metro's action to bring claimants' land into the Urban Growth Boundary (UGB), designate it Inner Neighborhood (allowing high-density residential development), and applying a 20-acre minimum lot size temporarily while planning is completed did not reduce the fair market value of claimants' property.

III TIMELINESS OF CLAIM

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from a land use regulation enacted *prior* to the effective date of Measure 37 (December 2, 2004), within two years of that date, or of the date a public entity applies the regulation to the property as an approval criterion in response to an application submitted by the owner, whichever is later; or
2. For claims arising from a land use regulation enacted *after* the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the regulation, or of the date the owner of the property submits a land use application for the property in which the regulation is an approval criterion, whichever is later.

Findings of Fact

The claimant submitted this claim on February 1, 2006. The claim identifies Metro Code section 3.07.1110 C as the basis of the claim. The Metro Council added the regulation that gives rise to this claim on September 10th, 1998 by Ordinance 98-772B.

Metro Council applied the regulation to the claimants' property on December 5, 2002 (effective March 5, 2003), by Ordinance No. 02-969B, prior to the effective date of Measure 37 (December 2, 2004). This ordinance added 18,638 acres to the Urban Growth Boundary, primarily in the Damascus urban expansion area that includes the claimants' property. This ordinance also designated the claimants' property as Inner Neighborhood.

Conclusions of Law

Metro adopted the regulation that gives rise to this claim prior to the effective date of Measure 37, and claimants filed the claim within two years of the effective date of Measure 37. The claim, therefore, is timely.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code section 2.22.020(c) defines "owner" to mean the owner of the property or any interest therein. "Owner" includes all persons or entities who share ownership of a property.

Findings of Fact

The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed December 30, 1977, and have had a continuous ownership interest since that time. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that time. Attachment 1 is a site map of the subject property (ATTACHMENT 1). The subject property is 11.34 acres and is undeveloped.

Conclusions of Law

The claimants, Roger and Ann Miracle, are owners of the subject property as defined in the Metro Code.

2. Zoning History

The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5-Acre (RRFF-5) on June 19, 1980.

3. Applicability of a Metro Functional Plan Requirement

Findings of Fact

In 2002, Metro Council expanded the UGB by adopting Ordinance No. 02-969B, including the claimants' property in the UGB expansion area.

Section 3.07.1110 C of Metro's Code prohibits any division of land into lots or parcels smaller than 20 acres, except for public schools or other urban services, pending adoption of urban comprehensive plan designations and zoning.

The City of Damascus adopted Resolution No. 05-69 on December 19, 2005, waiving certain land use regulations specified in Exhibit B (Staff Report), allowing the claimants to apply to the City of Damascus to divide their property into lots of at least one acre in size and to allow a single-family dwelling to be constructed on each lot not already containing a dwelling, consistent with RA-1 zoning in effect when the claimants acquired the property in 1977 and 1980.

Prior to its inclusion within the UGB in 2002, the property was subject to the state-required 20-acre minimum lot size. This requirement was adopted by the Land Conservation and Development Commission on April 29, 1992 and applies to lands located within one-mile of the urban growth boundary.

Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimant acquired the property. Thus, the section did not apply to the subject property at the time claimant acquired it. The section does not allow the claimants to partition or subdivide their 11.34-acre property until the City of Damascus adopts its comprehensive plan.

4. Effect of Functional Plan Requirements on Fair Market Value

Findings of Fact

Section 2.21.040(d)(5) requires the Chief Operating Officer (COO) to determine whether the temporary 20-acre minimum size for the creation of new lots or parcels applicable to territory newly added to the UGB has reduced the value of claimants' land. The COO's conclusion is based upon the analysis of the effect of Metro's action contained in ATTACHMENT 2 (Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel dated May 19, 2006 (Conder Memo)).

Claimants have submitted comparable sales data to support their assertion that the temporary 20-acre minimum size has reduced the value of their property by \$2,400,000. From that data, claimants assert that the property's current fair market value (FMV), with the temporary 20-acre minimum size in place, is \$300,000. Based on the data, claimants assert that a one-acre parcel for a homesite has a current FMV of \$300,000. County zoning at the time of purchase (1977 and 1980) allowed creation of one-acre homesites. Claimants believe they could have received approval of nine homesites. Hence, they multiply \$300,000 times the nine homesites they could have created, yielding a value of \$2,700,000. From this value claimants subtract \$300,000 for the asserted fair FMV of the one parcel that is buildable under current regulations. This calculation yields the claimed reduction in FMV of \$2,400,000.

The Conder Memo analyzes the claimant's information and applies two different methods for determining the effect of Metro's action on the value of claimant's property.

A. "Comparable Sales" Method

This method compares the value of the property in its current regulatory setting with its value today as though Metro's action had not happened, using transactions involving comparable properties in both "before" and "after" scenarios. Under the "before" scenario, the property would be outside the UGB with the zoning that applied at the time of the application of Metro's regulation: 11.34 acres zoned RFFF-5 (Rural Residential-Farm/Forest, five acre minimum lot size). In addition, the Land Conservation and Development Commission had in effect a 20-acre minimum for land divisions, effectively limiting the 11.34 acres to one dwelling unit. Given these zoning requirements, claimants would not have been able to obtain approval to divide their 11.34-acre property but would be eligible for one single-family dwelling.

Under the "after" scenario (current regulatory setting), the land lies within the UGB; it is designated Inner Neighborhood; and it is subject to a temporary 20-acre minimum lot size to preserve the status quo while the City of Damascus completes the comprehensive planning necessary to allow urbanization of the previously rural (outside the UGB) land. The comparable sales method assumes claimants will be able to use the property for high-density residential development (ranging from 23 to 34 residential lots on the buildable portions of the subject property).

Table 4 of the Conder Memo compares today's value of the property before and after Metro's action, adjusting in both cases for costs of development and limitations on development of the site that a prudent investor would take into account. The table shows that the FMV of the

property under existing regulations greatly exceeds the value of the property under RRFF-5 zoning outside the UGB. The analysis using this methodology indicates that the current regulatory setting has not reduced the FMV of the Miracle property.

B. Alternative Method Using Time Trend Data Suggested by Plantinga/Jaeger

The Condor Memo uses time-series data to determine whether the application of Metro regulations to the property reduced its value. The data show values before and after Metro's inclusion of the property in the UGB and application of Metro's regulations. The data are displayed in Table 3 of the memo. There is no indication from the data that Metro's regulations reduced the value of the property. The data show that the property continued to increase in value after March 5, 2003, the date the regulations became applicable to the property. Figure A of the memo depicts the data graphically.

C. The Statewide Planning Goals

As noted above, at the time claimants acquired the parcels comprising the subject property (1977 and 1980), Clackamas County zoned the property RA-1, Rural Agriculture – 1 Acre. The claimants assert that they could have divided their 11.34-acre parcel into nine lots under RA-1 zoning, and bases the valuation of his property on this assumption. This assumption, however, is incorrect.

The statewide planning goals were adopted by the Land Conservation and Development Commission and became effective on January 25, 1975. As of the time claimant acquired the subject property in 1977, LCDC had not yet acknowledged the Clackamas County Comprehensive Plan or its zoning ordinances. Thus, the goals applied directly to claimants' property when they bought it. Given the soils on the property, it was subject to Goal 3 (Agricultural Lands) and 4 (Forest Land), among other goals. Had claimants applied to the county for approval of a nine-lot subdivision, the county would have had to apply statewide planning Goals 3 and 4 to the application. Given that neither goal would have permitted the land division, the county would have had to deny it.

Claimants' assumption, therefore, that the FMV of their property should be based upon their ability to divide it into nine homesites is not supported by the regulations in place at the time of their acquisition.

Conclusions of Law

The comparable sales method compares the value of similarly situated properties before and after the application of Metro's regulations. The Plantinga-Jaeger method as applied in this case measures the assessor's real market value of the property before and after Metro's March 5, 2003, action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: did Metro's action reduce the FMV of the Miracle property? Application of the method shows that the FMV of the Miracle property continued to rise after Metro included it in the UGB with the Inner Neighborhood designation and the temporary 20-acre minimum lot size.

Property value data indicate that Metro's action to bring claimants' land into the UGB, designate it Inner Neighborhood (allowing high-density residential development), and apply a 20-acre

minimum lot size temporarily while planning is completed did not reduce the FMV of their property.

5. Exemptions under ORS 197.352(3)

Findings of Fact

Section 3.07.1110 C of the Metro Code does not restrict or prohibit a public nuisance, the selling of pornography or nude dancing, is not intended to protect public health or safety, and is not required to comply with federal law.

Conclusions of Law

Section 3.07.1110 C of the Metro Code is not exempt from Measure 37 under ORS 197.352(3).

6. Relief for Claimant

Findings of Fact

The Metro Council has appropriated no funds for compensation of claims under Measure 37. Waiver of Metro Code Section 3.07.1110 C to the subject property will allow the claimant to apply to the City of Damascus to divide the subject property into one acre lots and to develop a single family dwelling on each lot that does not already contain a dwelling. The effect of development as proposed by the claimant will be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

Based on the record, the claimant has not established that he is entitled to relief in the form of compensation or waiver of the interim 20-acre minimum lot size requirement under Metro Code Section 3.07.1110 C.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Miracle claim for the reason that the Council's Ordinance No. 02-969B did not reduce the value of the Miracle property.

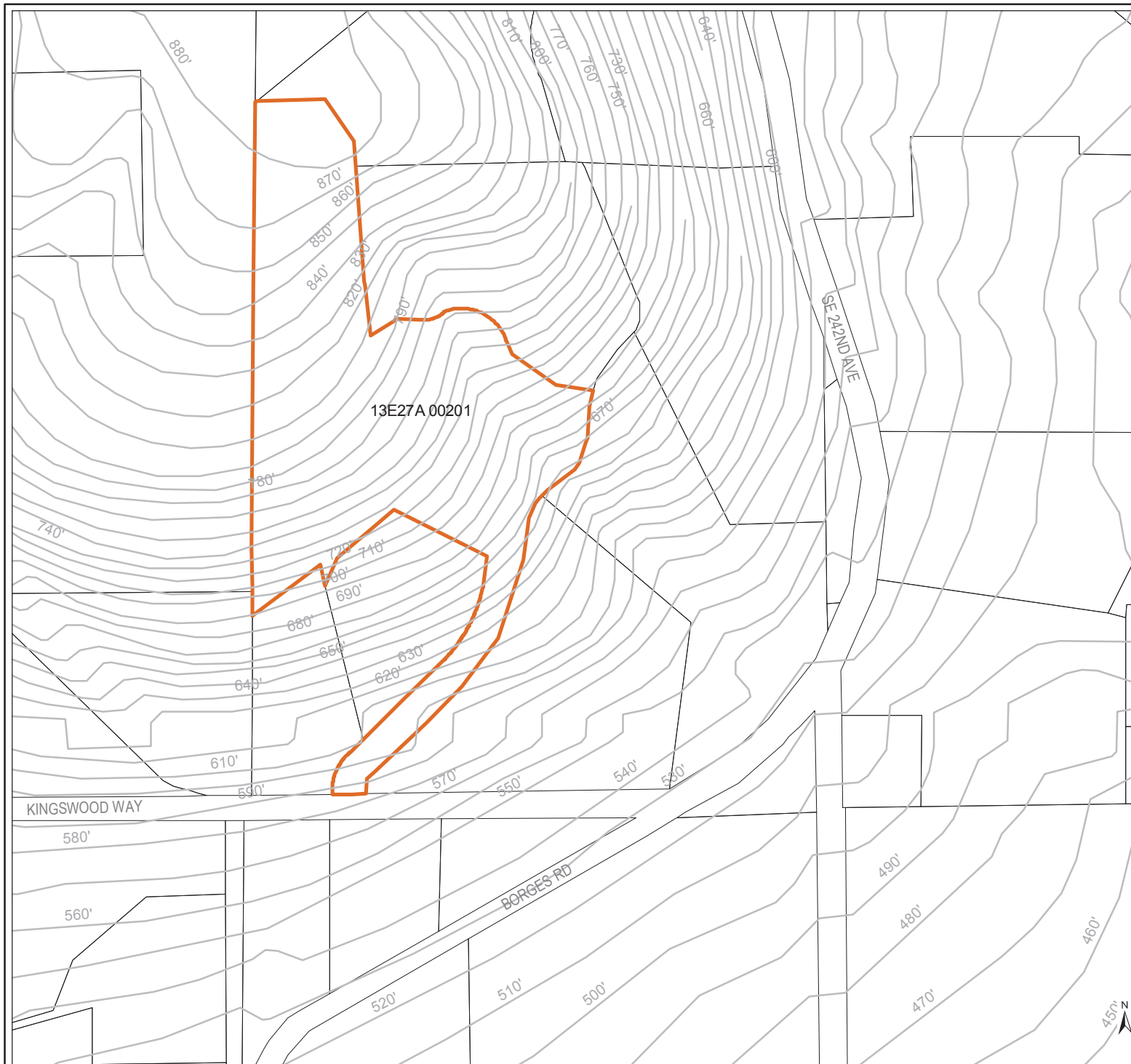
ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Roger and Ann Miracle Property

Attachment 2: Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Roger and Ann Miracle Measure 37 Claim," dated July 28, 2006

Attachment 3: Sample Area of 2004-2005 Sales Data for Damascus UGB Expansion Area and One Mile Buffer, Clackamas County, OR

Attachment 4: Roger and Ann Miracle Measure 37 Claim Submittal to Metro




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Attachment 1 COO Report

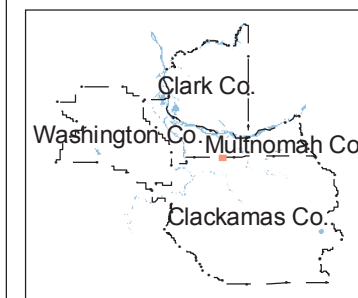
Site Map Miracle Measure 37 Claim

 Subject Property

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

1 inch equals 0.06 miles

 Feet
0 50 100



Location Map



METRO DATA RESOURCE CENTER
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL (503) 797-1742 FAX (503) 797-1909
dro@metro.dst.or.us | www.metro-region.org

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Attachment 2: Revised Report of the Chief Operating Officer

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1794



July 28, 2006

To: Paul Ketcham, Principal Regional Planner
Richard Benner, Senior Staff Attorney

From: Sonny Conder, Principal Regional Planner
Karen Hohndel, Associate GIS Specialist

Subject: Valuation Report on the Roger & Ann Miracle Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Miracle Measure 37 Claim. The Metro designation of "Inner Neighborhood" applies to the Miracle Claim. We conclude, using the comparable sales method of determining possible reduction in value, that the Metro action of including the 11.34 acre property inside the UGB, designating it "Inner Neighborhood" and imposing a temporary 20 acre minimum lot size for development did not produce a material loss of value for the subject property¹. In all likelihood, the action produced an increase in value for the claimant's property.

Using the a time series variation of the Plantinga-Jaeger method of determining property value loss due to regulation indicates no loss of value for the 11.34 acre parcel. This conclusion rests on the observation that the assessor's market value for that particular property has continued to increase since the Metro 2003 regulation. Moreover, the entire class of comparably sized RRFF-5 acre lot size designated parcels within the expansion area has continued to increase since the Metro 2003 regulation.

¹ We use the term "material" in the accounting/auditing sense that given the statistical variability inherent in the data there is no difference between two measurements of land value.

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The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's March 5, 2003, action. The comparable sales method compares today's value of similarly situated properties under current regulations with today's value under the regulations in place before Metro's action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: did Metro's action reduce the FMV of the Miracles' property? Application of the method shows that the FMV of the Miracles' property continued to rise after Metro included it in the UGB with the "Inner Neighborhood" designation and the temporary 20-acre minimum lot size. Thus, the Metro Council should deny the Miracles' claim for compensation or waiver.

We consider the time trend and Plantinga – Jaeger methods to be consistent approaches to determining whether a claimant has experienced a property value loss due to a particular government regulation. As we have noted elsewhere, the comparative sales method yields an estimate of what a particular property owner may gain; not an estimate of what they have lost.

Conceptual Understanding for Basis of Property Value Analysis:

We understand the present Measure 37 valuation problem to consist of making two property value estimates. These are:

1. Estimate the fair market value of the property subject to the regulation that the claimant contends has reduced the value of his property.
2. Estimate the fair market value of the property prior to the date Metro first applied the regulation to the claimant's property.

Metro Ordinance No. 02-969B applied a set of new regulations to the claimant's property. First the ordinance brought claimant's property into the region's urban growth boundary, making the property eligible for urban residential densities on the parcel rather than rural low-density development. The parcel was designated "Inner Neighborhood", allowing residential use on the property. Third the ordinance applied a temporary 20-acre minimum lot size to protect the status quo while local governments complete amendments to comprehensive plans to allow urban development. Within this overall framework any particular property may have a substantial range of development types and lot sizes. Implicit in this design designation is the availability of urban level capital facilities including sanitary sewers, storm water retention and management, water distribution, streets, roads, parks and other infrastructure and services associated with urban living. All development is assumed to occur in compliance with all health and safety regulations.

The zoning at the time of Metro regulatory action was the Clackamas County designation of RRFF-5 on the 11.34-acre parcel. This land use designation is a rural designation allowing one dwelling unit per five acres on RRFF-5. In addition the State had in effect a 20-acre minimum for lot subdivision, effectively limiting the 11.34 acres to one additional dwelling unit. All development under RRFF-5 must conform to applicable health and safety regulations. Most significant is that the reference default land use must be outside the present UGB in a rural setting. While seeming to be a subtle distinction, the requirement of a rural setting outside the UGB is conceptually pivotal to the valuation. To use RRFF-5 equivalent land inside the UGB as a basis for valuation includes the property value increasing amenity effects of urban services and infrastructure. It is logically contradictory to argue that inclusion inside the UGB and designation of the land for urban purposes has reduced a property's value but to include those very effects in the estimate of the property value without the subject action.

Alternative Method of Computing Property Value Loss Resulting From Regulation

Estimating loss of property value using the usual appraisal method of "comparative sales" has been the subject of substantial criticism. Andrew Plantinga and William Jaeger², economists at OSU, have written papers pointing out that using the method of comparative sales does not compute the loss due to regulation. Rather the estimated "value loss" is actually the gain resulting from obtaining an exemption to the general rule. To better understand their arguments, we may think of the comparative sales method of determining an economic loss as equivalent to determining the value of issuing someone a special license or franchise to carry out an economically valuable function that others may not do. For instance, licenses to operate taxi cabs in New York are seldom issued and in great demand. As a result the license itself has acquired substantial economic value. An example closer to home is the value of an Oregon Liquor License prior to more liberal issuing standards in the 80's. In the 1950's through roughly the 70's, an Oregon Liquor License for a restaurant or bar vastly increased the property value of the establishment that had one. Plantinga and Jaeger argue that the value of the property hinges on scarcity resulting from regulation. If everyone had a taxi cab or liquor license, they would have no value. From an economic perspective,

² Andrew Plantinga, *Measuring Compensation Under Measure 37: An Economist's Perspective*, Dec. 2004, 15 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: plantinga@oregonstate.edu).

William K. Jaeger, *The Effects of Land Use Regulations on Land Prices*, Oct. 2005, 38 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: wjaeger@oregonstate.edu).

Also: William K Jaeger, *The Effects of Land-Use Regulations on Property Values*, **Environmental Law**, Vol. 36:105, pp. 105 – 127, Andrew J. Plantinga, et. al., *The effects of potential land development on agricultural land prices*, **Journal of Urban Economics**, 52, (2002), pp. 561 – 581. and Sonny Conder and Karen Hohndel, *Measure 37: Compensating wipeouts or insuring windfalls?*, **Oregon Planners' Journal**, Vol. 23, No 1. Dec. – Jan 2005. pp. 6 – 9.

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using a method that really measures value gained from regulation is not the same as determining economic loss resulting from regulation.

Plantinga and Jaeger go on to suggest an economically appropriate measure of loss resulting from subsequent land use regulation. Their method is grounded in the well-established and tested Theory of Land Rent. Simplified a bit the Theory of Land Rent holds that the value of land at any particular time is the future net profit from the land used in its most efficient allowable use. The market also adjusts (discount factor) this value to account for time and uncertainty as to future uses. What this means is that the original sales price incorporates future expectations about how the land might be used. If we take the original sales price and bring it up to the current date by using an appropriate price index, we are able to measure in today's prices what the land was worth when it was purchased under the original regulatory requirements.

As Metro's regulatory action was taken in 2003, we have actual time series data to determine if the subject property experienced a loss of value after Metro's action. Consequently, we need not index the original sales price as we can observe whether the value actually decreased or not. We are able to make these observations for the particular property and for the entire class of subject properties within the Damascus expansion area. In essence the simplest approach to answering the question of whether a property lost value as a result of Metro's regulation is to measure whether the property value decreased following Metro's action.

This method allows a consistent computation of property loss due to subsequent regulatory changes. At the same time it avoids awarding particular property owners a bonus that was not anticipated in the original purchase price. Owners are compensated for what they lost; but they are not awarded an extra benefit owing to unanticipated growth, infrastructure investment or regulatory changes that happen after the application of Metro's regulations.

Property Valuation Analysis Procedure:

Our property valuation analysis procedure consists of the following steps.

- Briefly describe the property and make a prudent assessment of development limitations to establish a likely range of development capacity under both "Inner Neighborhood", and RRFF-5 with 20-acre minimum subdivision restrictions assuming health and safety regulations are enforced.
- Estimate value of property based on recent sales (2004,2005,2006) of lots and existing properties inside the Damascus expansion area of "Inner Neighborhood" development configurations including a 10 year discount factor for lag time in service provision.

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- Based on recent sales (2005) of property in a buffer zone extending 1 mile outside the present UGB within Clackamas County determine the value of residential property on lots of 5 to 15 acres in size. This procedure establishes a reasonable range of values for residential properties of RRFF-5 configuration in a rural setting.
- Provide an alternative determination of loss of value of the Miracle property based on time series before and after Metro's regulatory action.
- Evaluate the lot value and home value comparables submitted as evidence with the Miracle Measure – 37 claim. Comment on whether those estimates are logically relevant to establish a Measure 37 property value loss assertion.
- Provide and compare estimates of the value of the subject property as of 2006 with Metro 's "Inner Neighborhood" designation versus Clackamas County's RRFF-5.

Roger Miracle Property Description:

The subject property consists of 11.34 acres immediately north of Kingswood Way the 235th block in the community of Damascus. Clackamas County Assessor data show it as a 11.34 acre parcel with no structures. Assessor appraised value as of 2005 is \$169,871. Data submitted with the claim indicate 9.32 acres of the property was purchased in 1977 and 2.02 acres purchased in 1980. Purchase prices were \$2,000 for the 9.32 acres and \$2,500 for the 2.02 acres.

Visual inspection from Kingswood Road and the access road on to the property and air photo inspection as well as relevant GIS data indicate that the property poses substantial limitations to development; the full extent of which would require sanitation, geotechnical and civil engineering professionals to fully delimit and elucidate. The salient limiting feature for development on the property are the steep slopes comprising upwards of 5 acres of the property. In addition single-family dwellings have already been constructed on several lots at the base of the slope and adjoining the property on the southwest. Steep slopes constitute a limiting factor for both the "Inner Neighborhood" designation. Visual inspection of the property substantiates that it should be considered view property as it has wide vistas to the south and east.

Again, it is not in our professional capacity to assert with authority any definitive estimate of what the site limitations are; but rather to reflect what any prudent property investor must consider when pricing raw land. This holds true for both Metro's "Inner Neighborhood" and the default use of RRFF-5

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Land Use Capacity Estimates – 11.34 Parcel:

For purposes of determining “Inner Neighborhood” capacity we assume that all land between the 620 and 800-foot contours are not buildable. This reduces buildable land for “Inner Neighborhood” to 5.7 acres. For RRFF-5 we legally are limited to 1 dwelling unit capacity so there are not relevant restrictions.

Based on similar terrain and developments in the UGB expansion area within the City of Happy Valley we calculate that with “Inner Neighborhood” given a range of lot sizes of 5,000 – 12,000 sq. ft., 4 – 6 lots per acre could be constructed on the buildable acreage. This assumes urban level infrastructure and design flexibility in lot shape and structure placement on the lot.

For the RRFF-5 designation we assume by definition 1 buildable unit for the property.

In sum we expect the property with Metro’s Inner Neighborhood designation to yield 23 (4 times 5.7 acres) to 34 (6 times 5.7 acres) residential lots ranging from 5,000 to 12,000 sq. ft. in size. The RRFF-5 designation yields 1 buildable rural lot of 11.34 acres in size.

Current Value Estimate of “Inner Neighborhood” Buildable Lots in Damascus Expansion Area:

In order to establish a reasonable range of lot values for developing urban areas with infrastructure and nearby urban services, we evaluated all recent sales (year 2005) of land and lots within the Damascus UGB expansion area. As detailed in relevant data file and confirmed by the Clackamas County Assessor’s office, one area is under development. It consists of 38 acres that was included in the expansion area and annexed to Happy Valley. Data indicate that 152 lots of 7000 – 10000 sq. ft. have been sold for \$22.6 million for an average of \$149,000 per lot. The lot price range was from \$127,000 to \$175,000. The lots in question are ready to build lots with complete urban services inside the City of Happy Valley. They were also designated “Inner Neighborhood” when included within the UGB and subsequently zoned to R10 by the City of Happy Valley.

Since these lots were located in the urbanized, extreme western portion of the expansion area, we also examined 97 SFR year 2005 sales of properties designated Inner Neighborhood within the entire expansion area. Many of these sales occurred on properties that remain substantially rural in character without full urban services. Relevant summary results are in Table 1 below.

Table 1: Summary Property Value Data – Damascus Area Residential Sales

Average Lot Size:	1.02 acres
Median Lot Size:	0.95 acres
Average Lot Value:	\$119,000
Median Lot Value:	\$124,000
Average Total Prop.	\$300,000
Median Total Prop.	\$288,000
Average House Size:	2,450 Sq. Ft.
Median House Size:	2,350 Sq. Ft.

When we adjust for lot size, view property and the availability of full urban services, the data support a lot value range of \$150,000 to \$175,000 per buildable lot in 2005 dollars for "Inner Neighborhood" type development on the subject property. This value range encompasses a range of housing types and neighborhood conditions.

Current Value Estimate of "20 Acre Minimum Buildable Lots" in the 1 Mile Buffer Area Outside the UGB:

To establish the value range for "20 Acre Minimum" size lots with RRFF-5 zoning within the Clackamas rural area we selected all residential properties that sold in 2004 and 2005 within the 1 mile buffer zone with a lot size of 5 to 15 acres. These comprised 17 properties and their summary statistics are included below in Table 2.

Table 2: Summary Property Value Data – Clackamas County 1 Mile Buffer RRFF5 Zoning 5 – 15 Acre Lots with Recent Sales

Average Lot Size:	7.3 acres
Median Lot Size:	6.3 acres
Average Lot Value:	\$26,435
Median Lot Value:	\$22,297

The data suggest that the Miracle property with a 20 acre minimum lot size restriction that limits the property to 1 residential unit would be worth \$252,800 to \$299,800.

Alternative Valuation of Miracle Property Using the Time Trend Method Suggested by Plantinga and Jaeger.

OSU economists Andrew Plantinga and William Jaeger have challenged the "comparable sales" approach of traditional appraisal methods. They have pointed out that it really measures the value obtained by an exception to the current rule; rather

Resolution No. 06-3706
Attachment 2: Revised Report of the Chief Operating Officer

than a measure of economic loss suffered as a result of government land use regulation. Since the subject Metro regulatory change was recent (2003), we have before and after time series data to determine whether the Miracle property actually experienced a loss of value after the Metro regulation.

Accordingly, we have tabulated property value data for the entire expansion area from assessor's records for the years 2000 through 2006. We present the data for the Miracle 20 acre minimum property specifically and for all RRFF-5 designated properties within the expansion area between 5 and 15 acres in size. Table 3 below depicts the results by year.

Table 3: Miracle Property Value and Expansion Area Property Values 2000 – 2006

Year	Miracle Value	Average All 5 – 15 Acre RRFF-5
2000	6,841	9,138
2001	11,861	17,357
2002	12,441	18,854
2003	12,565	19,194
2004	13,188	20,280
2005	13,934	21,515
2006	15,054	23,275

Both the Miracle property assessor's market value and the average value of all RRFF5 tax lots within the study area increase steadily from 2003 through 2006. There is no evidence that Metro's action of including the property within the Urban Growth Boundary and imposing a temporary minimum lot size of 20 acres has reduced property values. Figure A shows Table 3 graphically.

Evaluation of Miracle Claim of Comparable Properties

The basis for the Miracle property value loss claim rests on a market value estimate of \$300,000 per developed, ready to build lot assuming 9 buildable lots are available on the property. From this total is subtracted \$300,000 to account for the one buildable lot of 11.34 acres currently permitted. To support the estimate of \$300,000 per buildable lot, 7 properties are submitted as comparable¹. Of the seven, six of these properties are located inside of the Urban Growth Boundary. Six are located within either Happy Valley or Gresham and all occupy prestige neighborhood locations with hilltop views or sweeping vistas. Examination of the Miracle property reveals the site as potentially a prestige neighborhood with a view and potential amenities. However, RRFF-5 is the rural default land use and cannot include urban design amenities. Even areas with view locations in rural areas have property values well below similar areas within urban

¹ Parenthetically, all of these properties are identical to or in the same neighborhoods as the properties that were submitted as comparable in the Darrin Black Claim.

Resolution No. 06-3706
Attachment 2: Revised Report of the Chief Operating Officer

settings. Whether the area evolves into a prestige urban neighborhood with full amenities remains problematic. As the data in Table 1 underscore, lot values are presently well below the \$300,000 per lot level.

Significant in the valuation of the Miracle property is the assumption that one may count the increase in value associated with being included within the UGB to assert a loss resulting from being included within the UGB.

Table 4 compares the current raw land values for the 11.34-acre property with Inner Neighborhood usage to the value of the property with rural usage (RRFF-5 zoning with a 20-acre minimum lot size allowing construction of one single-family dwelling).

Table 4: Comparison of Estimated Market Value of Raw Land for Inner Neighborhood and RRFF5 Land Uses

Inner Neighborhood	
Low Yield:	23 DU
Low Range Lot Value:	\$150,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$100,000
Total Raw Land Value (23x100,000):	\$2,300,00
Current Market Value per acre for 11.34 acres	
Discounted 10 years:	\$108,000
High Yield:	34 DU
High Range Lot Value:	\$175,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$125,000
Total Raw Land Value (34x125,000):	\$4,250,000
Current Market Value per acre for 11.34 acres	
Discounted 10 years:	\$199,700
20 Acre Minimum	
Low Range:	
Allowable Yield with 20 Acre Min.	1 DU
Low Value per Acre:	\$22,297
Total Value (11.34 x 22,297)	\$252,800
High Range:	
High Value per Acre:	\$26,435
Total Value (11.34 x 26,435)	\$299,800

We estimate the current raw land value of the Miracle property with Inner Neighborhood designation to range from \$108,000 per acre to \$200,000 per acre. The

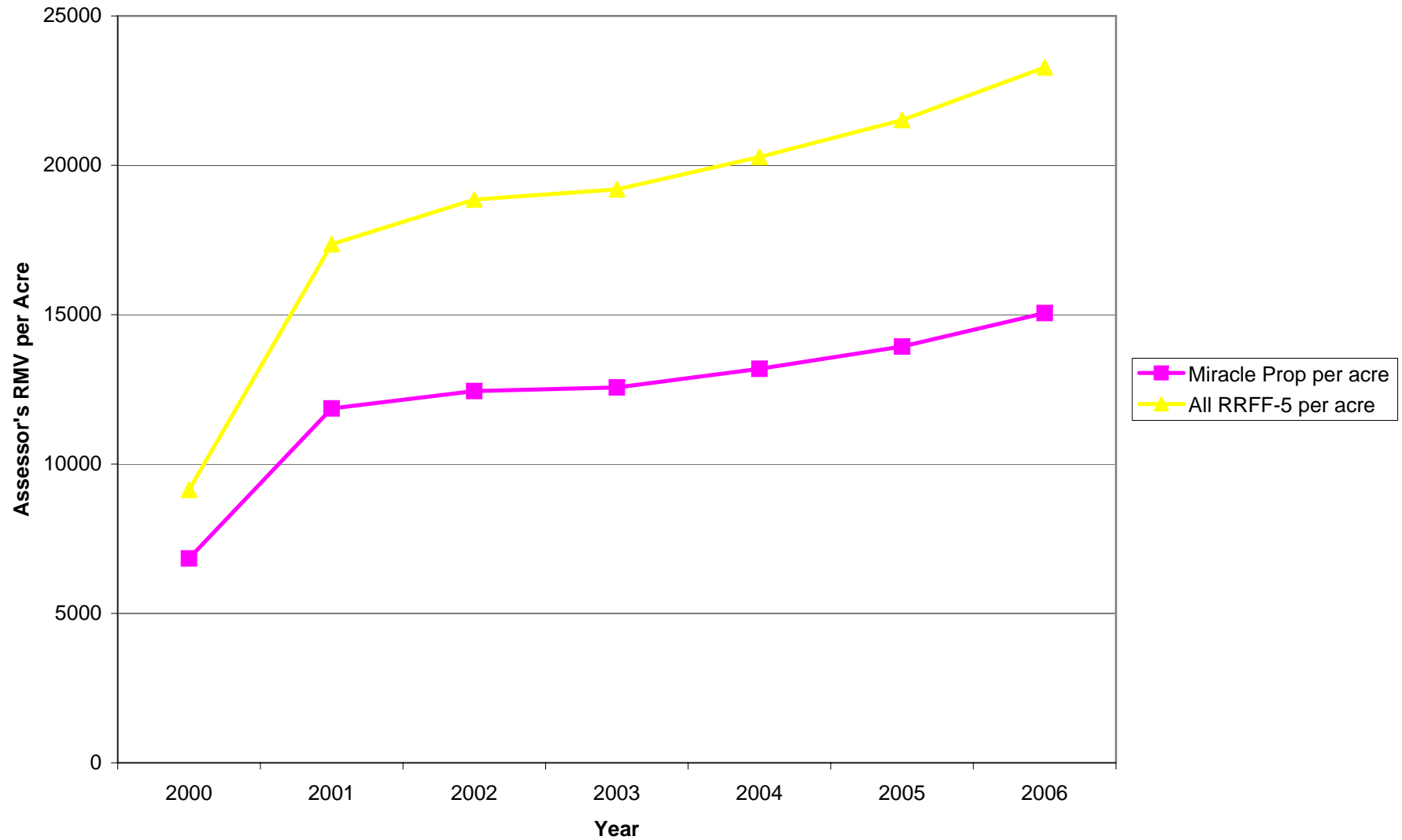
Resolution No. 06-3706
Attachment 2: Revised Report of the Chief Operating Officer

same property used as Rural Residential in a rural setting with a 20-acre minimum would yield \$22,300 to \$26,400 per acre. In other words the most optimistic rural valuation falls well below the most pessimistic Inner Neighborhood valuation. Given these results we would conclude that the Inner Neighborhood designation has not reduced the value of the property; quite the contrary it has most likely increased the value.

Moreover, in terms of establishing economic loss the land values per acre established using the time trend Plantinga-Jaeger method shows land values increasing steadily since 2003. Clearly, under no circumstances has any regulatory change to the Miracle property reduced its value. Again, the contrary is the case. Growth, infrastructure investment and regulation necessary to orderly growth have produced increases in property values well in excess of any alternative investment for the Miracle property.

The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's March 5, 2003, action. The comparable sales method compares today's value of similarly situated properties under current regulations with today's value under the regulations in place before Metro's action. The Plantinga-Jaeger method provides a clearer and more accurate answer to the question posed by Measure 37: did Metro's action reduce the FMV of the Miracles' property? Application of the method shows that the FMV of the Miracle property continued to rise after Metro included it in the UGB with the Inner Neighborhood designation and the temporary 20-acre minimum lot size. In short, the Metro regulations did not reduce the FMV of the Miracle property.

Figure A: Time Trend of Miracle Property Compared to All RRFF-5 in Area





METRO

Richard P. Benner
Tele: (503) 797-1532
FAX: (503) 797-1792

May 12, 2006

Barton C. Bobbitt
ATTORNEY AT LAW
4380 SW Macadam Avenue, Suite #500
Portland, Oregon 97239-6412

Re: *Miracle M 37 Claim*

Dear Mr. Bobbitt:

Metro is in the midst of evaluating the Measure 37 claim of Roger and Ann Miracle. We are not able to determine the purchase prices of the parcels that comprise the Miracles' ownership from the materials you submitted. This information is important to our analysis of reduction in the fair market value. Please submit some documentation of the purchase prices so we can complete our analysis.

Thank you.

Very truly yours,

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

cc: Paul Ketcham, Metro Planning Department
Karen Hohndel, Metro Planning Department

RFB:kw
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METRO

Richard P. Benner
Tele: (503) 797-1532
FAX: (503) 797-1792

March 27, 2008

Barton C. Bobbitt, P.C.
ATTORNEY AT LAW
4380 SW Macadam Avenue, Suite #500
Portland, Oregon 97239-6412

Re: *Measure 37 Claim – Roger & Ann Miracle*

Dear Mr. Bobbitt:

Metro received the claim you filed with Clackamas County on behalf of Roger and Ann Miracle on February 2, 2006. I have enclosed a copy of the Metro claims process, which includes the contents of a claim for filing with Metro.

As I mentioned on the telephone this afternoon, Metro will use the February 2 date as the claim date for the running of the 180 days for processing.

Please call me (503.797.1532) if you have questions about the claims process or the claim itself.

Very truly yours,

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

Enclosure: Claims Process

cc: Dan Cooper, Metro Attorney
Paul Ketcham, Metro Planning Department

RPB:kvw
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CHAPTER 2.21

CLAIMS UNDER BALLOT MEASURE 37

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 37. Metro adopts this chapter in order to afford property owners the relief guaranteed them by Ballot Measure 37 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement Measure 37 faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.

(Ordinance 05-1087A, Sec. 1.)

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.

(b) "Family member" means the wife, husband, son, daughter, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of

location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;

- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A copy of any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the land use regulation that applied to the property at the time the claimant acquired the property;
- (6) An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (8) A statement whether the claimant is filing claims with other public entities involving the same property.

(c) A claim shall not be considered complete for purposes of subsections (4) and (6) of Ballot Measure 37 until the claimant has submitted the information required by this section.

(Ordinance No. 05-1087A, Sec. 1.)

2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by Section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide

or conditions apply to the proposed use under the regulation;

- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from Ballot Measure 37 under subsection 3 of the measure; and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt from Ballot Measure 37, the regulation restricts the proposed use and the restriction has reduced the value of the property.

(e) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of Ballot Measure 37, and to assist in the development of a recommendation regarding appropriate relief if the claim is found to be valid.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the owner and other persons who request a copy. If the COO determines that the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

(Ordinance No. 05-1087A, Sec. 1.)

2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on the claim before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under Section 2.21.030.

2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under Section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this chapter. The Council shall place a condition on a decision under Section 2.21.060(a)(2) or (3) that the decision constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under Section 2.21.060(a)(2) or (3).

(Ordinance No. 05-1087A, Sec. 1.)

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under Section 2.21.060, the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

(Ordinance No. 05-1087A, Sec. 1.)

BARTON C. BOBBITT

HOWARD I. BOBBITT
(1912-1999)

ARTON C. BOBBITT, P.C.

ATTORNEY AT LAW
4380 S.W. MACADAM AVENUE
SUITE 500
PORTLAND, OREGON 97239-6412

RESOLUTION NO. 86-3786
Attachment 4: COO Report
DIRECT LINE (503) 223-2321
PHONE (503) 223-2321
FAX (503) 294-6051

EMAIL:BBob924517@AOL.com

February 1, 2006

Via Certified Mail with
Return Receipt Requested

Mr. Michael Jordan, CEO
METRO
600 NE Grand
Portland, OR 97232-2736

Re: Measure 37 Claim - Roger & Ann Miracle

Dear Mr. Jordan:

This firm represents Mr. & Mrs. Miracle who are owners of certain property located in Damascus, Oregon. I am enclosing herein an original Measure 37 claim which has been filed with Clackamas County Planning Division and the State of Oregon. I am also enclosing herein a copy of the Staff Report which was adopted by the City Counsel on December 5, 2005 which provided for a waiver of the restrictions upon the property. The claim was filed with Clackamas County/City of Damascus, on October 3, 2005 and the 180 period provided under Section 4 of Measure 37 will expire on April 2, 2006. The City of Damascus, in their resolution, specifically provided under the additional comments, that:

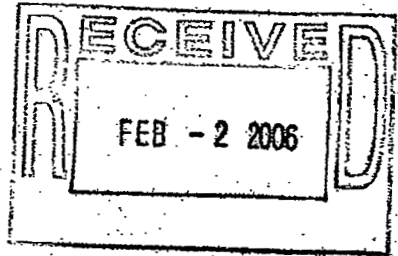
1. METRO will also have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within Portland Metropolitan Urban Growth Boundary that are now planned or zoned for urban growth uses. Therefore, this claim has been submitted to METRO for their evaluation.

I have also attached to the Measure 37 claim a statement alleging the claim of diminished value because of the effect of the restrictions upon the subject property by the Urban Growth Management Functional Plan.

Thank you for your courtesies.

Very truly yours,


Barton C. Bobbitt, P.C.



Measure 37 Claims Distro List:

☐ Dan Cooper
☒ Dick Benner
☐ Docket-OMA
☐ Lydia Neill

BCB/seb
cc: client

OFFICE OF METRO ATTORNEY

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**PLANNING DIVISION STAFF REPORT
TO THE DAMASCUS CITY COUNCIL
MEASURE 37 CLAIM**

RECEIVED
NOV 28 2005
CITY OF DAMASCUS

File Number: ZC286-05
Report Author: Jennifer Hughes, Senior Planner
Hearing Date: December 5, 2005
Report Date: November 23, 2005

Claimant(s): Roger and Ann Miracle

Date Filed: October 4, 2005

180-Day Processing Deadline: April 2, 2006

Legal Description: T1S-R3E-SECTION 27A-TAX LOT 201

Location: 9390 SE Kingswood Way, Damascus

Proposal/ Relief Requested: The claimants request compensation in the amount of \$2,400,000 as a result of a reduction in fair market land value caused by the enforcement of land use regulations. In the alternative, the claimants request to divide the subject property into lots with a minimum lot size of one acre and develop a single-family dwelling on each lot.

Ownership History/Date Acquired by Claimant(s): The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed on December 30, 1977, and have had a continuous ownership interest since that date. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that date.

Zoning History: The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5 Acre on June 19, 1980.

Reduction in Land Value: The claimants assert that the inability to divide the property and develop single-family dwellings has reduced the property's value by \$2,400,000. The claimants have submitted a comparative market analysis to substantiate the reduction in value. This is sufficient to verify that the inability to divide the property to create

additional building lots results in a loss in property value, although the exact amount of the loss is unknown.

Discussion: The subject property is approximately 11.34 acres and is undeveloped.

The property currently is zoned RRFF-5. The RRFF-5 zone typically has an average minimum lot size standard of five acres; however, the subject property is within the Urban Growth Boundary, where the RRFF-5 zone imposes a 20-acre minimum lot size. Even with a five-acre minimum lot size standard, the subject property could not be divided because it is part of a flexible-lot-size partition of a 15.34-acre parcel recorded in 1993. The 15.34-acre parcel was only eligible for division into three parcels under the RRFF-5 zone.

The property was zoned RA-1 when the claimants acquired it in 1977 and 1980. The RA-1 zone has a minimum lot size of one acre.

The current RRFF-5 zoning has resulted in a reduction in land value as compared to the RA-1 zoning in effect when the claimants acquired the property. The facts discussed above demonstrate a valid Measure 37 claim.

Remedy: The City Council must decide whether to compensate for the reduction in value, or modify, remove or not apply the land use regulations that have caused the reduction in value. If permission to divide the property and develop additional dwellings is not granted, the claimant requests compensation of \$2,400,000. The city has no funds allocated to provide compensation.

Recommendation: Based on the facts discussed above, staff recommends the City Council do the following, in order to allow the subject property to be divided into a maximum of 13 lots and to allow a single-family dwelling to be developed on each lot not already containing a dwelling:

- Find the claim valid
- Not apply to the subject property the following land use regulations:
 - Subsection 309.07(D) of the Damascus Zoning and Development Ordinance (minimum lot size standard of the RRFF-5 zone within the Portland Metropolitan Urban Growth Boundary)
 - Subsection 309.08(B) of the Damascus Zoning and Development Ordinance (ZDO) (minimum lot size standard of the RRFF-5 zone)
 - Subsection 902.01.B of the ZDO (minimum lot size restrictions and exceptions)
 - Subsection 1014.04.B (minimum lot size restrictions for flexible-lot-size developments)

- Subsections 1020.04.A and B (lot line adjustment standards)
 - Any provisions of the Comprehensive Plan that can be construed as imposing a minimum lot size that is larger than otherwise allowed by this order
- In review of a specific proposal for development, remove any other land use regulations, other than those exempted by Section 3 of Ballot Measure 37, which have the effect of reducing the number of lots or dwellings otherwise allowed by this order
- Require that approval of a land division shall be subject to the minimum lot size standards of the RA-1 zone in effect on December 30, 1977 for the 9.32 acres acquired on that date and June 2, 1980 for the 2.02 acres acquired on that date
- Require that division and development of the property shall be subject to all other current land use regulations
- Include the following disclaimer in the order, "This decision was rendered pursuant to the requirements of Measure 37. Measure 37 has been ruled invalid by an Oregon Circuit Court, and is being appealed to the Oregon Supreme Court. If the Supreme Court upholds the decision that Measure 37 is invalid, any approvals or denials issued under Measure 37 may be found to be void. If Measure 37 is ruled to be invalid, the landowner may be responsible for all costs relating to reversing the decision, including but not limited to the removal of any structures that were deemed to have been approved contrary to law."

Additional Comments:

1. Metro also will have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within the Portland Metropolitan Urban Growth Boundary that are not planned or zoned for urban uses.
2. City approval of a partition (two or three lots) or subdivision (four or more lots) to divide the property must be secured.
3. Approval of a domestic water source, on-site sewage disposal and construction permits (e.g. building, plumbing and electrical) will be required for any new dwelling. A driveway permit may also be required. (Several of these issues will be addressed during partition or subdivision review.)
4. The recommended action does not resolve several questions about the application of Measure 37, including the question of whether the rights granted to the claimants by this decision can be transferred to an owner who subsequently acquires the property.

MEASURE 37 CLAIM

CLACKAMAS COUNTY PLANNING DIVISION
9101 SE SUNNYBROOK BLVD., CLACKAMAS, OREGON 97015
PHONE (503) 353-4500 FAX (503) 353-4550 www.co.clackamas.or.us

FOR STAFF USE ONLY

FILE NUMBER: _____ DATE RECEIVED: _____
STAFF MEMBER: _____ CPO: _____

APPLICANT INFORMATION (PLEASE TYPE OR PRINT IN BLACK INK ONLY)

WHAT IS PROPOSED Request current zoning be waived and original
zoning be restored

LEGAL DESCRIPTION: T~~1S~~^{R3E} SECTION 27 A TAX LOT(S) 201
T~~1S~~^R SECTION _____ TAX LOT(S) _____

(ADDITIONAL) _____

NAME OF CONTACT PERSON Roger J. Miracle
MAILING ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE (503) 667 4330 ; CELL PHONE Work Phone 503 661 9010

PROPERTY OWNER(S) (The name, address and telephone number of all owners, including their signatures, must be provided. In the event there are more than 3 property owners, please attach additional sheets. Please print clearly)

OWNER 1 Roger J. Miracle *Roger J. Miracle*
SIGNATURE *Roger J. Miracle*
ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE 503 667 4330 CELL PHONE Work Phone 503 661 9010

OWNER 2 Ann M. Miracle *Ann M. Miracle*
SIGNATURE *Ann M. Miracle*
ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE 503 667 4330 CELL PHONE 503 975 4330

OWNER 3 _____
SIGNATURE _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE _____ CELL PHONE _____

12/2/2004

MEASURE 37 CLAIM **SUPPLEMENTAL INFORMATION**

(Attach additional sheets as necessary to complete this supplemental portion of the claim)

1. **Other persons with an interest in the property (such as lien holders):** Please provide a list of the name, address and phone number of anyone with an interest in the property, and identify their interest.

NONE

2. **Exact date the current owner acquired the property?** December 30, 1977.*

*See attached letter of explanation

3. **If the current owner acquired the property from a family member, what is the exact date the family member acquired the property?**

N/A

If there is more than one event where the property was acquired from a family member, such as a series of inheritances, please provide a list of all such events and their dates.

N/A

4. **What regulation (if more than one, please describe) do you believe lowered the value of your property? When did the regulation take effect?**

The change in zoning laws in 1979 effectively changed my original purchase of 13.26 acres from one acre parcels to current 5-acre minimums.

5. **Please describe how this regulation(s) restricts the use of the property and reduces the property's fair market value.** Under current zoning I have one building site. With zoning restrictions waived I will have one acre parcels which will have a much greater value.

12/6/2004

6. How much has the fair market value of your property been reduced by enactment or enforcement of the regulation(s)? Approximately \$2.4 million*

* See attached Market analyses

7. Are you requesting compensation, or removal of the regulation(s), modification of the regulation(s), or a decision not to apply the regulation(s)?
If you are requesting monetary compensation, please indicate how much and how you calculated this sum. *[Please note that the County has exclusive authority to choose whether to pay monetary compensation, or remove, modify or not apply the regulation(s) causing a valid claim.]*

We are requesting that said property be returned to original zoning

8. Are you requesting that a specific use be allowed? Please describe the use.

We are requesting zoning be changed to original state which would allow one-acre buildable parcels.

9. The following additional material must be submitted with the application:

- a. A real property appraisal performed by a licensed or certified appraiser licensed in Oregon; the appraisal must meet the Uniform Standards of Professional Appraisal Practice and the requirements of County's Measure 37 Claims Process Ordinance;
- b. A title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation proving ownership of the property;
- c. Copies of any leases or covenants, conditions and restrictions applicable to the property and any other documents that impose restrictions on the use of the property;
- d. Claims processing fee -- \$750.00

12/6/2004



M37 Claim Form

INSTRUCTIONS FOR SUBMITTING A CLAIM

This form requests specific information that is required of a claimant by OAR 125.145.0010-.0120. A Claimant must fully complete each box of the claim form and provide all information and evidence to support the claim. In lieu of completing each box or section on this form, a Claimant may attach supplemental documents to provide the requested information. Attached documents shall not be used to complete section 1 and 2, or any section which requires a signature.

- Claims may only be submitted by an Owner or an Authorized Agent of the Owner.
- Claims may only be submitted; in person; by private carrier; by U.S. Postal Service Certified or by Registered Mail to:
Risk Management-State Services Division, 1225 Ferry St. SE, U160, Salem OR 97301- 4292
- Only Original Signed Claims will be accepted, claims submitted electronically or by facsimile, will not be accepted.
- Attach *separate sheet of paper* as needed, with reference to the appropriate **Section number** on this form.
- Claim criteria/requirements may be found in Oregon Administrative Rules 125.145.0010 – 0120

Section 1 NAME AND CONTACT INFORMATION OF CLAIMANT/PROPERTY OWNER

Enter the name and contact information of the PRIMARY property owner who is submitting the claim.

Name of Claimant:	ROGER J. MIRACLE		Day Time Phone #:	503 661-9010	
Address:	806 SW WILSON CT.				
City:	GRESHAM	State:	OR	Zip:	97080

Section 2 NAME AND CONTACT INFORMATION OF PERSON SUBMITTING CLAIM (AGENT)

Enter the name and contact information of the person who is sending the claim for the property owner if different than the name in Section 1 above.

Name of Agent:	Day Time Phone #:				
Address:					
City:	State:		Zip:		
Must attach a written notarized statement signed by the owner(s) or a Power of Attorney properly authorizing submittal of this claim.					
Attachment: Yes <input type="checkbox"/> No <input type="checkbox"/>					

Section 3 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY

Enter the name and contact information of every person or entity who has an interest in the property. This includes but is not limited to:

- (a) Every lessee and lessor of the Property;
- (b) Every person or entity holding a lien against, or a security interest in, the Property;
- (c) Every person or entity holding a future, contingent, or other interest of any kind in the Property.

This could be other owners, banks, mortgage companies, state or federal agencies or entities, programs specific to the use of the property and any and all others with any interest in the property. Some examples could be: a USDA program providing funds for an owner not to grow a particular crop on the land, banks with second third or other mortgage interest. If using an attachment, the attachment must be submitted in such a format as to easily distinguish the various owners and interest in the property.

Name: <i>ANN M. MIRACLE</i>	Day Time Phone #: <i>503 661-9010</i>	
Address: <i>806 SW WILSON CT.</i>		
City: <i>GRESHAM</i>	State: <i>OR</i>	Zip: <i>97080</i>
Describe Interest in Property:		

Name:	Day Time Phone #:	
Address:		
City:	State:	Zip:
Describe Interest in Property:		

Name:	Day Time Phone #:	
Address:		
City:	State:	Zip:
Describe Interest in Property:		

Name:	Day Time Phone #:	
Address:		
City:	State:	Zip:
Describe Interest in Property:		

Name:	Day Time Phone #:	
Address:		
City:	State:	Zip:
Describe Interest in Property:		

Section 4 PROPERTY FROM WHICH THE CLAIM DERIVES

Enter the location of the property, all contiguous property, upon which the claim is based. This description is by street address, legal description, and other descriptors which allow a concise description of the property allowing its location, size, and other physical attributes to be ascertained. Attachment if Applicable ☐

Street Address: <i>if applicable</i> 9390 SE KINGSWOOD WAY		City: GRESHAM	
County: CLACKAMAS	State: OR	Zip: 97080	
Tax Lot #: 201	County Tax Assessor's Map Reference # & Date:		
Township: 1 SOUTH	153E27A 8-22-01		
Range: 3 EAST	Section: 27A		
Other Legal Description Information:			

Section 5 EVIDENCE OF OWNERSHIP

Include evidence or information describing the length and extent of ownership of the property, any encroachments, easements, Covenants Conditions and Restrictions, and federal, state and local restrictions on the Property, including all applicable zoning, comprehensive plan and other land use and development regulations. Examples may include; an owner who lives and works on the property, but does not own the mineral rights or a property owner who has easements for neighbors to use roads and the local power company to traverse the property with power or other cables.

The following is attached as proof of ownership: (list all attachments)	1.) DEEDS 2.) TITLE REPORT 3.) HISTORICAL EXPLANATORY LETTER-CLACK. CO. 4.) ORIGINAL PURCHASE CONTRACT
Date of Acquisition of Property:	12-30-77
Nature & Scope of Ownership of Property: Attachment if Applicable <input type="checkbox"/>	
All Encroachments, Easements, etc. (see OAR 125-145-0040 (8) for further information) Attachment if Applicable <input type="checkbox"/>	

Section 6 INTENDED USE OF PROPERTY

What is the intended use of the property that is currently prohibited by state regulations? DEVELOPABLE 1-ACRE LOTS

Section 7 NATURE AND MANNER OF RESTRICTION

List each Land Use Regulation on which the Claim is based and include evidence or information that demonstrates the manner in which each cited Land Use Regulation restricts the use of the Property compared with how the owner was permitted to use the Property under Land Use Regulations in effect at the time the owner acquired the Property.

Law or Rule: Attachment if Applicable <input type="checkbox"/>	CLACK. CO. ZONING CODE 309.08 B	Describe how this Land Use Law or Rule restricts the use of this property: REQUIRES 5-ACRE MINIMUM LOT SIZE
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:

Section 8 DATE ON WHICH EACH CITED LAND USE REGULATION BEGAN TO APPLY TO SUBJECT PROPERTY

List each Land Use Regulation on which the Claim is based and include evidence or information that demonstrates the date on which each cited Land Use Regulation began to apply to the Property.

Law or Rule: Attachment if Applicable <input type="checkbox"/>	SEE SECTION 7	Date of Effect: 12-17-79
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:

Section 9 AMOUNT OF PROPERTY VALUE REDUCTIONRESOLUTION NO. 06-3706
Attachment 4: COO Report

Enter the amount of Fair Market Value reduction to the Property caused by each cited Land Use Regulation. (Refer to Sections 6 & 7 above). Attach evidence or provide information to support the basis and rational for the reduction in Fair Market Value.

Fair Market Value Reduction Amount \$: 2,350,000	Law or Rule SEE SECTION #7	Basis of Evaluation: MARKET ANALYSIS (ENCLOSED)
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:

Section 10 AUTHORITY TO ENTER PROPERTY

This section of the form authorizes the Department, the Regulating Entity and their officers, employees, agents, and contractors to enter the Property as necessary to verify information, appraise the property, or conduct other business related to this claim. Each person that can restrict access to the property must sign in the appropriate box in this section.

I/We Affix Our Signature(s) to this Form Granting Access to the Subject Property in ANY Manner or Form Deemed Appropriate by State Agency or Agencies for the Review of the Property in Furtherance of the Processing or Handling of this Claim: SIGNATURES OF ALL OWNERS WITH AUTHORITY TO RESTRICT ACCESS	
Printed Name: ROGER J. MIRACLE	Signature: <i>Roger J. Miracle</i>
Interest in Property: CO-OWNER	
Printed Name: ANN M. MIRACLE	Signature: <i>Ann M. Miracle</i>
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	

Section 11 ATTACHMENTS

Check the appropriate box for all documents, evidence and supporting information that is attached and included as a part of this claim.

Title Report: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Deed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appraisal(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Covenants, Conditions & Restrictions: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Affidavits: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Map(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Deferrals: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Reductions: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Participating Federal Programs: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		<input type="checkbox"/> Other Information:(Explain) <i>REAL ESTATE VALUATION</i>	
<input checked="" type="checkbox"/> Other Information:(Explain) <i>LETTER FROM CLACK. CO.</i>		<input checked="" type="checkbox"/> Other Information:(Explain) <i>PURCHASE CONTRACT</i>	

Section 12 OTHER CLAIMS FILED

List all other governmental entities you or someone on your behalf has submitted claims to regarding the Property involved in this claim. List all claims submitted to the state or other entities relating to this property or any portion thereof on anyone's behalf. You must list all entities even if you only submitted a claim to them for a portion of the Property that is the subject of this claim.

Have you submitted a claim to another governmental entity regarding the property listed in this claim?	
No <input type="checkbox"/>	
Yes <input checked="" type="checkbox"/> Date: <i>10-3-05</i>	To Whom: <i>CLACKAMAS CO.</i>
Yes <input type="checkbox"/> Date:	To Whom:
Yes <input type="checkbox"/> Date:	To Whom:
Yes <input type="checkbox"/> Date:	To Whom:

ADDITIONAL INFORMATION THAT MAY BE SUBMITTED IN SUPPORT OF THIS CLAIM

<ol style="list-style-type: none"> 1. A report by a certified appraiser that addresses the Reduction in Fair Market Value of the Property resulting from the enactment or enforcement of the cited Land Use Regulation(s) as of the date the Claim was filed; 2. A statement of the effect of the cited Land Use Regulation(s) on any Owner's tax status, including without limitation any tax deferrals or tax reductions related to the cited Land Use Regulation(s); 3. Citation to each Land Use Regulation(s) in effect at the time the owner acquired the property explaining how the use that is now not permitted by the Land Use Regulation(s) set forth in Oregon Administrative Rules (OAR) 125-145-0040(9) was permitted at the time the owner acquired the property; 4. Names and addresses of Owners of all real property located within 100 feet of the Property if the Property is located in whole or in part in an urban growth boundary, 250 feet of the Property if the Property is located outside an urban growth boundary and not within a farm or forest zone and 750 feet of the Property if the Property is located in a farm or forest zone.

I ATTEST THAT I HAVE FILLED OUT THIS FORM COMPLETELY AND THIS CLAIM IS TRUE
AND CORRECT. (Signatures of all parties preparing this form.)

Roger J. Miracle 1 / 1 / 10-3-05
Signature Date

Ann M. Miracle 1 / 1 / 10-3-05
Signature Date

Ann M. Miracle 1 / 1 /
Signature Date

Signature Date

Signature Date

Signature Date

State of Oregon

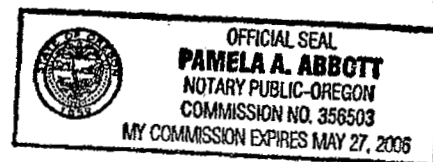
County of Multnomah

Signed and sworn to before me on October 3, 2005 by _____
(month - day - year)

Pamela A. Abbott
(Notary Public – State of Oregon)

▼ ▼ ▼ Notary Seal ▼ ▼ ▼

My commission expires: 5-27-06



October 3, 2005

Clackamas County Planning Division
9101 SE Sunnybrook Blvd.,
Clackamas, OR 97015

Re: Roger and Ann Miracle, MEASURE 37 CLAIM

Dear Sirs:

I am enclosing this letter of explanation to hopefully provide you with a 'quick' review of our property history. We are also providing as much documentation as possible but it might be somewhat confusing if the history is not known on this property. If in your processing of this claim you have any questions I would be more than happy to talk with you. Call my office number of (503) 661-9010.

On December 30, 1977 we purchased 13.26 acres from the Yunker family (Parcel I of the Yunker Heights Major Partition). When this land was purchased, a two-acre parcel was deeded over to us directly (see copy of deed) and the remaining 11.26 acre-parcel was purchased on a note. Because the two-acre parcel was deeded over to us, a separate tax lot was created (tax lot 202) while the remaining 11.26 acres (carried on a note) formed tax lot 201. The deed for the 11.26 acres was conveyed to us when we paid off the note on 8/26/80. Together, these two tax lots, no. 201 and no. 202, comprised Parcel I of the County approved Major Partition, file no. MP-4-76, platted in 1977 as Major Partition no. 41, Yunker Heights.

On August 26th, 1980 we made an additional purchase of the land that comprised tax lot 208. This land, added to our previous purchase brought our total acreage to 15.35 acres. The 15.35 acres consisted of tax lots 201, 202, and 208 – three tax lots comprising one legal lot of record.

In 1992, we created a flexible lot size partition (file no. Z0489-92-M). Two tax lots of 2 acres each were created and sold – tax lots 214 and 215. The remaining portions of tax lot 201, all of tax lot 202, and all of tax lot 208 were now combined into the one tax lot, no. 201, totaling 11.34 acres. This tax lot 201 is the current tax lot as of this day.

Although there have been changes made over the years, the bottom line is this: tax lot 201 consists of 9.26 acres which were purchased on December 30, 1977 with the remaining acreage being that of the old tax lot 208 which was purchased on August 26th, 1980.

I am also attaching a letter written to me on June 14, 2000 by Rick McIntire of the Clackamas County Planning Department outlining the history on this parcel.

I hope this has been of assistance to you.

Regards,


Roger J. Miracle



*Clackamas
County*

RESOLUTION NO. 18-2783
Attachment 4: CDD Report
**DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT**

Sunnybrook Service Center

June 14, 2000

THOMAS J. VANDERZANDEN
DIRECTOR

Roger Miracle
806 SW Wilson Ct.
Gresham, OR 97080

Via Facsimile to 666-9054

Subject: Tax lots 201, 214 & 215; Map no. 1-3E-27A

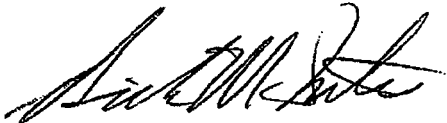
On June 13, 2000, you spoke with Jennifer Hughes of this office concerning the Lot of Record status of tax lots 201, 202 and 208 in map no. 1-3E-27A. The latter two tax lots no longer exist as a result of the partition approved in 1992. The current tax lot numbers are 201, 214 and 215. You have asked for an explanation of the results of the Research Request dated Nov. 16, 1991 done for you by Mike McCallister of this department. At that time, Mike found that the original tax lots, 201, 202 and 208 combined form one (1) legal lot of record. Tax lot 201 contained 11.26 acres, tax lot 202 contained 2.00 acres and tax lot 208 contained 2.02 acres. The combined area was 15.35 acres. Subsequently, you obtained approval of a partition, Planning file no. Z0489-92-M, to create three (3) separate lots of record. The approved parcels are now the current tax lots 201, 214 and 215. Your concern appears to be that the 1991 finding that the three tax lots comprised only one (1) Lot of Record may have been incorrect and that you may have been able to create a fourth parcel by dividing tax lot 201 (11.26) acres into two (2) parcels without involving tax lots 202 and 208. The subject property is zoned RRFF-5. In this zoning district, the maximum allowable density is one (1) dwelling unit per five (5) acres.

The original tax lot 201, containing 13.26 acres inclusive of tax lot 202, was created as a result of a County approved Major Partition, file no. MP-4-76, platted in 1977 as Major Partition no. 41, Yunker Heights. The combination of tax lots 201 and 202 was Parcel 1 of that plat. Parcel 1 was sold to you in 1977 on contract. Tax lot 208 (2.02 acres) was originally part of Parcel 2 of that plat. Parcel 2 originally contained all of current tax lots 210 and parts of tax lots 211 and 212 as well. The total area of Parcel 2 was 10.13 acres. Subsequently, tax lot 202 (2.00 ac.) was split from the north end of tax lot 201 in 1978 and deeded to you. There is no record of a County-approved partition to create tax lot 202 as a legal lot of record. Such approval was required to create any parcels in the rural area containing less than 20 acres by ordinance adopted in August of 1974. Therefore, the creation of this parcel was not done in compliance with County ordinance requirements.

In 1980, a subdivision, Hogan Road Heights, was approved to subdivide the remaining area of the original tax lot 200 into five (5) lots. The plat area contained all but 2.02 acres of Parcel 2 of Major Partition no. 41. This 2.02 acre tract was sold to you in 1980 and became

tax lot 208. Again, no partition approval was granted by the County to create this parcel as a legal lot of record. In essence, it was a lot line adjustment between tax lot 200 and the combination of tax lots 201 and 202. As a result, by 1980 you were in possession of a single 15.35 acre lot of record comprised of three (3) separate tax accounts. Tax lots 202 and 208 were not lawfully created lots of record under the County Subdivision and Partition Ordinance requirements in effect at the time these parcels were created. Subsequently, you partitioned this acreage into three (3) new parcels, current tax lot nos. 201, 214, and 215 (file no. Z0489-92-M). This partition was approved as a flexible lot size partition; i.e. two of the parcels were less than five (5) acres in size. Tax lot 201 is 11.34 acres in size, but cannot be divided under the existing RRFF-5 zoning. The 1992 partition "used up" the density allowed to the original 15.35 acre parcel by creating the maximum allowable number of parcels (three) under this zoning classification.

If you have any further questions concerning this matter, please call me at 353-4516.



Rick McIntire
Planner II
Clackamas County Planning Dept.

RESOLUTION NO. 06-3706
Attachment 4: COO Report



First American

First American Title Insurance Company of Oregon
1500 NE Division
Gresham, OR 97030
Phn - (503) 667-1333
Fax - (503) 665-8374



FAX TRANSMITTAL

DATE: **08/16/2005 04:12:59 PM**

FILE NO.: **7012-633774**

TO: **Roger Miracle**
Attn:

FAX: **15036669054**

FROM: **Gaye Bell**

Special Instructions/Comments: **Measure 37 report & Deed**

Thank You For Your Business! We Know You Have A Choice.

IMPORTANT NOTICE:

Should any of these papers require an **ORIGINAL SIGNATURE** and your fax machine produces the facsimile on thermal paper, please **PHOTOCOPY** then sign the photocopy. We will "not" accept an Original Signature on THERMAL fax paper.
Thank you for your cooperation in this matter.

**IF TRANSMISSION OF ALL PAGES IS NOT COMPLETE OR IF AN ORIGINAL IS NEEDED,
PLEASE CONTACT THE SENDER.**

RESOLUTION NO. 06-3706
Attachment 4: COO Report



First American

First American Title Insurance Company of Oregon
222 SW Columbia Street, Suite 400
Portland, OR 97201
Phn - (503) 222-3651
Fax - (503) 790-7858

MULTNOMAH COUNTY TITLE UNIT
FAX (503) 790-7858

Title Officer: **Carol Bruney**
(503) 222-3651

MEASURE 37 LOT BOOK SERVICE

Roger J. Miracle & Ann M. Miracle
806 SW Wilson Court
Gresham, OR 97080

Order No.: 7012-633774
August 16, 2005

Attn:
Phone No.: - Fax No.:
Email:

Re:

Fee: \$500.00

We have searched our Tract Indices as to the following described property:

Parcel 1, PARTITION PLAT NO. 1993-93, in the County of Clackamas and State of Oregon.

and as of August 1, 2005 at 8:00 a.m.

We find that the last deed of record runs to

Roger J. Miracle and Ann M. Miracle, as tenants by the entirety

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes for the fiscal year 2005-2006 a llen due, but not yet payable.
2. The assessment roll and the tax roll disclose that the premises herein described were specially assessed as Forest Land pursuant to O.R.S. 321.358 to 321.372. If the land becomes disqualified for the special assessment under the statute, an addition tax may be levied for the last five (5) or lesser number of years in which the land was subject to the special land assessment.
3. Maintenance of Private Roadway, including terms and provisions thereof.
Recorded: November 18, 1977 as Fee No. 77 47512
4. Declaration of Restrictions of Partition Plat # 1993-93, including terms and provisions thereof.
Recorded: August 15, 1994 as Fee No. 94-065522

First American Title

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Lot Book Service

Guarantee No.: **7012-633774**
Page 2 of 2

5. Road Maintenance Agreement, including terms and provisions thereof.
Recorded: August 15, 1995 as Fee No. 94-065524
6. Unrecorded leases or periodic tenancies, if any.

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount: \$790.83
Map No.: 13E27A 00201
Property ID: 00132092
Tax Code No.: 026-015

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens:

In our search for recorded deeds to determine the vestee herein we find the following:

Document	Recorded	Book	Page	Fee No.
Quitclaim Deed - Statutory Form	July 22, 1987			8733467

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listing do to include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Measure 37 Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Vediny

FORM NO. 940—QUITCLAIM DEED—STATUTORY FORM (Individual Grantor)

STEVENS-NEAL & CO. PLS. CO., PORTLAND, OR 97204

QUITCLAIM DEED—STATUTORY FORM
INDIVIDUAL GRANTOR

MARSHA ANN ZINK

releases and quitclaims to ROGER J. MIRACLE and ANN M. MIRACLE, husband and wife Grantor,real property situated in Clackamas County, Oregon, to-wit:

All of that portion described on Exhibit A attached hereto
of that certain easement for ingress, egress and utility purposes
over and across that certain 25 foot wide roadway as shown on the
duly recorded major partition of "Yunker Heights".

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

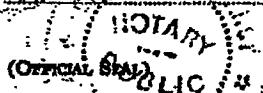
The true consideration for this conveyance is \$ NONE (Here comply with the requirements of ORS 93.030)Dated this 21 day of July, 19 87

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

MARSHA ANN ZINK

STATE OF OREGON, County of Multnomah, ss. July 21, 1987Personally appeared the above named MARSHA ANN ZINK

and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me: Cheryl A. CherryNotary Public for Oregon—My commission expires: 3/4/91

QUITCLAIM DEED

MARSHA ANN ZINK

ROGER J. MIRACLE and ANN M. MIRACLE

GRANTOR

GRANTOR'S ADDRESS, ZIP

After recording return to:

Mr. and Mrs. Roger J. Miracle
c/o Mrs. Marsha Ann Zink

P. O. Box 3242

Gresham, OR 97030

NAME, ADDRESS, ZIP

Until a change is requested, all tax statements
shall be sent to the following address:

No change

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of _____ ss.

I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ or as fee/file/instrument/microfilm/reception No. _____, Record of Deeds of said county.

Witness my hand and seal of
County affixed.

NAME

TITLE

By _____ Deputy

87 33467

RESOLUTION NO. 06-3706
Attachment 4: COO Report

EXHIBIT A

A twenty-five foot wide roadway located in the East one-half of the Northeast one-quarter of Section 27, T 1 S, R 3 E, of the Willamette Meridian, County of Clackamas, State of Oregon, with its westerly boundary more particularly described as follows:

Commencing at the Northeast Corner of the said Section 27; thence South 89°09'50" West, a distance of 1,311.01 feet to the Northwest corner of the East one-half of the Northeast one-quarter of the said Section 27; thence South 00°13'02" West along the West line of the said East one-half, a distance of 1073.38 feet; thence South 89°46'58" East, a distance of 150.00 feet; thence South 33°28'20" East, a distance of 113.00 feet; thence South 04°49'45" East, a distance of 424.25 feet; thence North 65°02'40" East, a distance of 69.19 feet; thence North 85°46'26" East, a distance of 65.22 feet; thence North 79°41'33" East, a distance of 50.08 feet; thence North 88°34'42" East, a distance of 35.05 feet; thence South 74°39'10" East, a distance of 46.89 feet; thence South 57°15'43" East, a distance of 35.04 feet; thence South 38°02'46" East, a distance of 98.77 feet; thence South 55°37'34" East, a distance of 121.39 feet to the true point of beginning of this description; thence South 05°51'20" West, a distance of 82.40 feet; thence 95.15 feet along the arc of a 114.97 foot radius circular curve to the right through a central angle of 47°25'05" (long chord is 92.46 feet and bears South 29°33'52" West); thence South 53°16'25" West, a distance of 72.83 feet to a point on a non-tangent curve to the left having a radius of 86.10 feet; thence along said curve, the long chord of which bears South 29°33'52" West, an arc distance of 74.46 feet; thence South 3°46'30" West a distance of 52.83 feet; thence along a 154.43 foot radius curve to the right, the long chord of which bears South 6°24'48" West, 54.63 feet, an arc distance of 54.92 feet; thence South 16°36'05" West a distance of 125.53 feet; thence along a 204.78 foot radius curve to the right, the long chord of which bears South 29°33'38" West 91.85 feet, an arc distance of 92.63 feet; thence South 42°31'10" West a distance of 232.95 feet; thence South 48°20'15" West a distance of 106.04 feet; thence along a 71.37 foot radius curve to the left, the long chord of which bears South 23°51'42" West 59.14 feet, an arc distance of 60.98 feet; thence South 89°23'10" West a distance of 220.39 feet to a point on the North boundary of a fifty foot wide road dedication as shown on the Yunker Heights, Major Partition recorded November 18, 1977 as Recorder's Fee No. 77-47511, Film Records.

2

REGION
Clackamas
Subdiv. County Court for the County of
Clackamas, Oregon, for the purpose of
recording in the records of said



and was signed
by F. K. [Signature]
County Clerk
(att)

87 33487

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Comparative Market Analysis

for

Roger Miracle

SUBJECT PROPERTY

9390 SE Kingswood Way
Gresham, OR 97080

- ◆ 11.34 Acre Parcel
- ◆ One Building Site

Suggested Price: \$350,000

Prepared By:

Vicki Arnold
Americana Properties, Inc.

8/10/2005



Americana

This report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice and is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

Comparables to Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

53501 SE Terra Fern	LND	ACT	\$279,000
----------------------------	------------	------------	------------------

**No Photo
Available**

ML#: 5053945
MLS Area: 144
County: Clackamas
Neighborhood:
Zip Code: 97055
T/Guide: 692E7
Tax Id #: 01351904

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 51.56

Directions: HWY 26 TO TERRA FERN

Remarks: BEAUTIFUL BUILDING SITE! VERY SECLUDED WITH LARGE TREES AND CREEK. A MUST SEE IN THIS PRICE RANGE.

STARK ST	LND	PEN	\$200,000
-----------------	------------	------------	------------------



ML#: 5020294
MLS Area: 144
County: Multnomah
Neighborhood: SEC 01 01S 03E
Zip Code: 97060
T/Guide: 599H7
Tax Id #: R337253, R337235

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1411

Directions: ACROSS FROM SE 35TH STREET ON STARK ST.

Remarks: APPROX 8.23 ACRES WITH SANDY RIVER FRONTAGE AND MT. HOOD VIEW (PER OWNER). COUNTY SAYS POSSIBLY QUALIFIES FOR TEMPLATE TEST TO BUILD YOUR DREAM HOME. BUYER TO VERIFY WITH MULTNOMAH COUNTY.

7927 SE 190 DR	LND	SLD	\$500,000
-----------------------	------------	------------	------------------

**No Photo
Available**

ML#: 4005284
MLS Area: 144
County: Multnomah
Neighborhood:
Zip Code: 97236
T/Guide: 627H7
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 2734.21

Directions: FOSTER TO RICHEY RD TO 190TH DR. RIGHT TO PROPERTY. SIGNS ON 190TH DR

Remarks: BEAUTIFUL LEVEL LAND WITH RICHEY CREEK THROUGH MIDDLE OF PROP. NOT IN FLOOD PLAIN ACCORDING TO MAPS. IN UGB. LOTS OF NEW DEVELOPMENT IN AREA.

Anderson	LND	SLD	\$208,000
-----------------	------------	------------	------------------



ML#: 4038153
MLS Area: 146
County: Clackamas
Neighborhood:
Zip Code: 97013
T/Guide: 775G3
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 642.25

Directions: CANBY S ON 99 R ON ANDERSON TO SIGN.

Remarks: THIS IS A BEAUTIFUL WOODED 8.34 ACRES. IDEAL FOR PRIVACY AND THAT SPECIAL SPOT FOR YOUR DREAM HOME. OVERLOOKING THE PUDDING RIVER YOU CAN FIND PEACE AND TRANQUILITY. UNIQUE OPPORTUNITY. ACCESS IS AVAILABLE FROM EITHER SIDE OF ANDERSON RD. CLACKAMAS CO. WILL MOVE BARRIERS.

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Summary of Comparables

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5053945	0	RESID	9390 SE KINGSWOOD WAY	Sandy	144	11.34	\$350,000
		RESID	53501 SE Terra Fern		144	9.84	\$279,000

Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5020294	4	RESID	9390 SE KINGSWOOD WAY	Troutdale	144	11.34	\$350,000
		RESID	STARK ST		144	8.23	\$200,000

Sold

MLS#	P	Type	Address	City	Area	Acres	Price
4005284	0	RESID	9390 SE KINGSWOOD WAY	Portland	144	11.34	\$350,000
		RESID	7927 SE 190 DR		144	9	\$500,000
4038153	3	RESID	Anderson	Canby	146	8.34	\$208,000

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SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Pricing Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Status	#	Average	Minimum	Maximum	Avg Sqft	Avg \$Sqft
Active	1	\$279,000	\$279,000	\$279,000	0	\$0
Pending	1	\$200,000	\$200,000	\$200,000	0	\$0
Sold	2	\$354,000	\$208,000	\$500,000	0	\$0
Total Listings	4	Sold Properties closed averaging 74.53% of their Final List Price. This reflects a 25.47% difference between Sale Price and List Price.				

	Amount	\$/Sqft
Average Sales Price	\$354,000	\$0
Min. List Price	\$224,950	\$0
Max. List Price	\$725,000	\$0
Suggested List Price	\$350,000	\$

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SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Comparative Market Analysis

RESOLUTION NO. 06-3706
Attachment 4: COO Report

for

Roger Miracle

SUBJECT PROPERTY

9390 SE Kingswood Way
Gresham, OR 97080

- ◆ 11.34 Acre Parcel
- ◆ Nine Building Sites
- ◆ Price Per One Acre Parcel

Suggested Price: **\$300,000**

Prepared By:



Vicki Arnold
Americana Properties, Inc.

8/10/2005

Americana
Properties, Inc.

This report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice and is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

######

10693 SE RIDGEWAY DR	LND	SLD	\$325,000
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ML#: 4070992
MLS Area: 145
County: Clackamas
Neighborhood: ALTAMONT #6
Zip Code: 97266
T/Guide: 657H1
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1979.65

RESOLUTION NO. 06-3706
 Attachment 4: COO Report

Directions: IDELMAN TO TYLER, TYLER TO CITY VIEW, CORNER OF CITY VIEW & RIDGEWAY
Remarks: BREATHTAKING PANORAMIC VIEW! BEHOLD THE VIEW OF DOWNTOWN PORTLAND, MT. ST. HELENS & WILLAMETTE RIVER. BUILD YOUR DREAM HOME ON THIS LOT OF JUST OVER AN ACRE LOCATED ON A PRIVATE GATED CULDESAC WITH JUST 2 OTHER HOME SITES OF SIMILAR SIZE. CLOSE TO SHOPPING & AIRPORT.

10687 SE Ridgeway DR	LND	SLD	\$375,000
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**No Photo
Available**

ML#: 5047925
MLS Area: 145
County: Clackamas
Neighborhood: Altamont
Zip Code: 97266
T/Guide: 657H1
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 0

Directions: IDELMAN TO TYLER, TYLER TO CITY VIEW, CORNER OF CITY VIEW & RIDGEWAY DR
Remarks: GREAT VIEWS OF EVERYTHING

10915 SE VALLEY VIEW TER	LND	SLD	\$395,000
---------------------------------	------------	------------	------------------

**No Photo
Available**

ML#: 5014586
MLS Area: 145
County: Clackamas
Neighborhood: HIGHPOINTE
Zip Code: 97015
T/Guide: 657J2
Tax Id #: 01505151

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1621.05

Directions: SUNNEYSIDE
Remarks:

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Summary of Comparables

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5025910	0	RESID	9390 SE KINGSWOOD WAY 0 WALTERS LOOP	Gresham	144 144	11 0.97	\$300,000 \$299,500

Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5013508	7	RESID	9390 SE KINGSWOOD WAY 16th CT	Gresham	144 144	11 1.1	\$300,000 \$234,900

Sold

MLS#	P	Type	Address	City	Area	Acres	Price
5032952	1	RESID	9390 SE KINGSWOOD WAY		144	11	\$300,000
5030876	0	RESID	0 SW MILLER CT	Gresham	144	1.01	\$240,000
4070992	6	RESID	Le Ann CT	Boring	144	0.98	\$250,000
5047925	0	RESID	10693 SE RIDGEWAY DR	Portland	145	1.2	\$325,000
5014586	0	RESID	10687 SE Ridgeway DR	Portland	145	1	\$375,000
			10915 SE VALLEY VIEW TER	Happy Valley	145	1	\$395,000

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SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Pricing Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Status	#	Average	Minimum	Maximum	Avg Sqft	Avg \$Sqft
Active	1	\$299,500	\$299,500	\$299,500	0	\$0
Pending	1	\$234,900	\$234,900	\$234,900	0	\$0
Sold	5	\$317,000	\$240,000	\$395,000	0	\$0
Total Listings	7	Sold Properties closed averaging 97.6% of their Final List Price. This reflects a 2.4% difference between Sale Price and List Price.				

	Amount	\$/Sqft
Average Sales Price	\$317,000	\$0
Min. List Price	\$249,000	\$0
Max. List Price	\$395,000	\$0
Suggested List Price	\$300,000	\$

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SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Metro Statement as to negative effect of the Urban Growth Management Functional Plan

Under the Urban Growth Management Functional Plan portions of the subject property would be required to be set aside reducing the total acreage available for residences. The proposed restriction would result in a lower number of residences and any beneficial effect (if any) of the restrictions would not increase the value of the remaining lots sufficiently to compensate for the reduction in the number of the lots. Thus, the restrictions would result in a net decrease in the value of the property.

C:\Client Files\1215.7\Metro Statement.wpd

MEMORANDUM

TO: Paul Ketcham
FROM: Dick Benner
SUBJ: Applicability of Statewide Planning Goals to Miracle Property
DATE: June 6, 2006

You asked how the statewide planning goals apply to the claim of Roger and Ann Miracle and how that might affect Metro's disposition of the claim.

According to our files, the Miracles acquired the subject property on December 30, 1977. At the time they acquired it, Clackamas County zoned the property RA-1 (Rural Agricultural, one-acre minimum lot size). The statewide planning goals became effective statewide on January 25, 1975. The goals, therefore applied to the subject property at the time the Miracles acquired it. *Sunnyside Neighborhood v. Clackamas County Commission*, 280 Or. 3, 569 P2d 1063 (1977).

Statewide Planning Goals 3 (Agricultural Land) and 4 (Forest Land)

According to Metro soils information, the subject property meets the definition of "agricultural land" in statewide planning Goal 3 and "forest land" in statewide planning Goal 4. Because LCDC did not acknowledge exceptions for the area in Clackamas County's comprehensive plan until December 31, 1981, after the Miracles acquired the property, Goals 3 and 4 applied to the property at the time of acquisition.

Had the Miracles applied to divide the subject property in 1977 into one-acre lots as permitted by the county's RA-1 zone, the county would have had to apply Goals 3 and 4 to the application. *1000 Friends of Oregon v. Board of County Commissioners, Benton County*, 32 Or App 413, 575 P2d 651 (1978). Neither goal would have allowed the creation of one-acre parcels, so the county would have had to deny the subdivision application.

Later, however, Clackamas County took an "exception" from Goals 3 and 4 in its comprehensive plan for the Miracle property and the area around it. LCDC ultimately approved the exception in 1981. Had the Miracles applied to divide the property *after* LCDC approved the county plan in 1981, with an exception from Goals 3 and 4, the county would have been able to approve a division long before Metro's regulatory action. I conclude, therefore, that statewide planning Goals 3 and 4 have no effect on Metro's analysis of possible reduction in value.

Statewide Planning Goal 14 (Urbanization)

At the time the Miracles acquired the subject property, it lay outside the UGB. Goal 14 does not allow "urban" development outside UGBs. *1000 Friends v. LCDC (Curry County)*, 301 Or 447, 724 P2d 268 (1986). But the goals at the time the Miracles acquired the property did not define "urban" or "rural" with sufficient specificity to determine whether residential development on one-acre parcels was "urban" and, hence, prohibited by state law on rural land. (Not until 2000 did statewide planning law say that residential development on parcels smaller than two acres is "urban.") I conclude, therefore, that statewide planning Goal 14 has no effect on Metro's analysis of possible reduction in value.

**CITY OF DAMASCUS
RESOLUTION NO. 05-69**

**RESOLUTION OF THE DAMASCUS CITY COUNCIL IN THE
MATTER OF THE CLAIM OF ROGER AND ANN MIRACLE
PURSUANT TO BALLOT MEASURE 37 (2004)**

WHEREAS, Pursuant to Ballot Measure 37, Roger and Ann Miracle ("Claimants") filed Claim #ZC286-05 (attached as Exhibit A) on October 4, 2005, regarding property within the City of Damascus, Clackamas County, Oregon (the "Property") described as:

T1S-R3E-SECTION 27A-TAX LOT 201

WHEREAS, Pursuant to City procedures to implement Measure 37, the claim was investigated by staff and a report dated November 23, 2005 was submitted regarding the claim. The Staff Report is attached hereto as Exhibit B.

WHEREAS, Pursuant to City procedures, a hearing was held on the Exhibit A claim on December 5, 2005 for which appropriate notice was provided.

NOW, THEREFORE, the City Council of the City of Damascus resolves as follows:

1. That the Property described in the Exhibit A claim is owned by the Claimants, and interests in the Property were acquired by Claimants on December 30, 1977.
2. That subsequent to Claimants' acquisition of an interest in the Property, land use regulations were imposed on the Property by the City which, pursuant to Ballot Measure 37, may restrict the use of the Property and appear to have reduced the value of the Property.
3. That compensation may be owed under Ballot Measure 37 as a result of land use regulations adopted and enforced on the Property since Claimants' acquisition, but that the Council finds it to be in the best interest of the City to satisfy the Claimants' claim for compensation by removing, amending waive such regulations in lieu of compensation.
4. That compensation shall not be paid on the claim, but in lieu thereof, the City shall remove, amend or not apply those land use regulations, that restricted the use of, and caused devaluation of the Property, and that were imposed on the Property by the City after the date of acquisition of the claimants described in paragraph 1, as provided in the attached Staff Report, Exhibit B.

5. That this Resolution and Order does not waive or otherwise affect lot size or other regulations applicable to the Property adopted by Metro or the Oregon Land Conservation and Development Commission (LCDC) or other agency of the State of Oregon or other regulations excluded from Ballot Measure 37 by the terms thereof.

6. That the City adopts the recommendations and any additional comments, terms and conditions set forth in the City Planning Division's Staff Report, dated November 23, 2005, attached hereto as Exhibit B and incorporated herein by reference.

APPROVED AND ADOPTED on December 19th, 2005.


Dee E. Wescott, Mayor

ATTEST:


Millicent Morrison, City Clerk

CITY OF DAMASCUS

19920 SE Hwy 212
Damascus Oregon, 97015
(503) 658-8545
www.ci.damascus.or.us

Resolution No. 05-69

PLANNING DIVISION STAFF REPORT TO THE DAMASCUS CITY COUNCIL MEASURE 37 CLAIM

File Number: ZC286-05
Report Author: Jennifer Hughes, Senior Planner
Hearing Date: December 5, 2005
Report Date: November 23, 2005

Claimant(s): Roger and Ann Miracle

Date Filed: October 4, 2005

180-Day Processing Deadline: April 2, 2006

Legal Description: T1S-R3E-SECTION 27A-TAX LOT 201

Location: 9390 SE Kingswood Way, Damascus

Proposal/ Relief Requested: The claimants request compensation in the amount of \$2,400,000 as a result of a reduction in fair market land value caused by the enforcement of land use regulations. In the alternative, the claimants request to divide the subject property into lots with a minimum lot size of one acre and develop a single-family dwelling on each lot.

Ownership History/Date Acquired by Claimant(s): The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed on December 30, 1977, and have had a continuous ownership interest since that date. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that date.

Zoning History: The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5 Acre on June 19, 1980.

Reduction in Land Value: The claimants assert that the inability to divide the property and develop single-family dwellings has reduced the property's value by \$2,400,000. The claimants have submitted a comparative market analysis to substantiate the reduction in value. This is sufficient to verify that the inability to divide the property to create

9.32
2.02
11.34 acres

- Subsections 1020.04.A and E (lot line adjustment standards)
 - Any provisions of the Comprehensive Plan that can be construed as imposing a minimum lot size that is larger than otherwise allowed by this order
- In review of a specific proposal for development, remove any other land use regulations, other than those exempted by Section 3 of Ballot Measure 37, which have the effect of reducing the number of lots or dwellings otherwise allowed by this order
 - Require that approval of a land division shall be subject to the minimum lot size standards of the RA-1 zone in effect on December 30, 1977 for the 9.32 acres acquired on that date and June 2, 1980 for the 2.02 acres acquired on that date
 - Require that division and development of the property shall be subject to all other current land use regulations
 - Include the following disclaimer in the order, "This decision was rendered pursuant to the requirements of Measure 37. Measure 37 has been ruled invalid by an Oregon Circuit Court, and is being appealed to the Oregon Supreme Court. If the Supreme Court upholds the decision that Measure 37 is invalid, any approvals or denials issued under Measure 37 may be found to be void. If Measure 37 is ruled to be invalid, the landowner may be responsible for all costs relating to reversing the decision, including but not limited to the removal of any structures that were deemed to have been approved contrary to law."

Additional Comments:

1. Metro also will have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within the Portland Metropolitan Urban Growth Boundary that are not planned or zoned for urban uses.
2. City approval of a partition (two or three lots) or subdivision (four or more lots) to divide the property must be secured.
3. Approval of a domestic water source, on-site sewage disposal and construction permits (e.g. building, plumbing and electrical) will be required for any new dwelling. A driveway permit may also be required. (Several of these issues will be addressed during partition or subdivision review.)
4. The recommended action does not resolve several questions about the application of Measure 37, including the question of whether the rights granted to the claimants by this decision can be transferred to an owner who subsequently acquires the property.

NOTICE OF PUBLIC HEARING

Before the Damascus City Council to Consider a Measure 37 Claim

Notice Date: November 10, 2005

To: Property Owners within 500 feet, Community Planning Organization, Cities, and Claimant

Subject: A claim has been filed pursuant to Ballot Measure 37 (2004). The claimants have asked for compensation in the amount of \$2,400,000 as a result of a reduction in fair market land value caused by the enforcement of land use regulations. In the alternative, the claimants request approval to divide the subject property of approximately 11.34 acres into lots with a minimum size of one acre and develop a single-family dwelling on each lot.

*****Please note:** Staff believes that this is an accurate description of the claim. However, due to the nature of Ballot Measure 37, the information provided by the claimants may be incomplete or the proposal may change prior to or during the public hearing.

Hearing Date: December 5, 2005

Time: This item will not begin before 7:00 PM. However, it may begin later depending on the length of preceding items.

Hearing Location: City of Damascus, 19920 SE Hwy. 212, Damascus OR 97015

File Number: ZC286-05

Claimant: Roger and Ann Miracle

Property Location: 9390 SE Kingswood Way

Legal Description: T1S, R3E, Section 27A, Tax Lot(s) 201, W.M.

Planning Division Staff Contact: Jennifer Hughes, 503-353-4518, jenniferh@co.clackamas.or.us

All interested citizens are invited to attend the hearing. An agenda will be provided at the hearing. The claim file is available for inspection and may be purchased at a reasonable cost at the Planning Division, Sunnybrook Service Center, 9101 SE Sunnybrook Blvd., Clackamas, Oregon 97015, (503-353-4500). Direct all calls and written correspondence to the Planning Division.

MEMORANDUM

TO: Paul Ketcham
FROM: Dick Benner
SUBJ: Applicability of Statewide Planning Goals to Miracle Property
DATE: June 6, 2006

You asked how the statewide planning goals apply to the claim of Roger and Ann Miracle and how that might affect Metro's disposition of the claim.

According to our files, the Miracles acquired the subject property on December 30, 1977. At the time they acquired it, Clackamas County zoned the property RA-1 (Rural Agricultural, one-acre minimum lot size). The statewide planning goals became effective statewide on January 25, 1975. The goals, therefore applied to the subject property at the time the Miracles acquired it. *Sunnyside Neighborhood v. Clackamas County Commission*, 280 Or. 3, 569 P2d 1063 (1977).

Statewide Planning Goals 3 (Agricultural Land) and 4 (Forest Land)

According to Metro soils information, the subject property meets the definition of "agricultural land" in statewide planning Goal 3 and "forest land" in statewide planning Goal 4. Because LCDC did not acknowledge exceptions for the area in Clackamas County's comprehensive plan until December 31, 1981, after the Miracles acquired the property, Goals 3 and 4 applied to the property at the time of acquisition.

Had the Miracles applied to divide the subject property in 1977 into one-acre lots as permitted by the county's RA-1 zone, the county would have had to apply Goals 3 and 4 to the application. *1000 Friends of Oregon v. Board of County Commissioners, Benton County*, 32 Or App 413, 575 P2d 651 (1978). Neither goal would have allowed the creation of one-acre parcels, so the county would have had to deny the subdivision application.

Later, however, Clackamas County took an "exception" from Goals 3 and 4 in its comprehensive plan for the Miracle property and the area around it. LCDC ultimately approved the exception in 1981. Had the Miracles applied to divide the property *after* LCDC approved the county plan in 1981, with an exception from Goals 3 and 4, the county would have been able to approve a division long before Metro's regulatory action. I conclude, therefore, that statewide planning Goals 3 and 4 have no effect on Metro's analysis of possible reduction in value.

Statewide Planning Goal 14 (Urbanization)

At the time the Miracles acquired the subject property, it lay outside the UGB. Goal 14 does not allow "urban" development outside UGBs. *1000 Friends v. LCDC (Curry County)*, 301 Or 447, 724 P2d 268 (1986). But the goals at the time the Miracles acquired the property did not define "urban" or "rural" with sufficient specificity to determine whether residential development on one-acre parcels was "urban" and, hence, prohibited by state law on rural land. (Not until 2000 did statewide planning law say that residential development on parcels smaller than two acres is "urban.") I conclude, therefore, that statewide planning Goal 14 has no effect on Metro's analysis of possible reduction in value.

**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 37
AND METRO CODE CHAPTER 2.21**

REPORT OF THE METRO CHIEF OPERATING OFFICER

**In Consideration of Council Order No. 06-004
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of Roger and Ann Miracle**

May 19, 2006

METRO CLAIM NUMBER:	Claim No. 06-004
NAME OF CLAIMANT:	Roger and Ann Miracle
MAILING ADDRESS:	Barton C. Bobbitt Attorney at Law 4380 SW Macadam Avenue, Suite #500 Portland, OR 97239-6412
PROPERTY LOCATION:	9390 SE Kingswood Way, Damascus, Clackamas County, Oregon
LEGAL DESCRIPTION:	T1S R3E Section 27A Tax Lot 201
DATE OF CLAIM:	February 1, 2006

I. CLAIM

Claimants Roger and Ann Miracle seek compensation in the amount of \$2,400,000 for a claimed reduction in fair market value of property owned by the claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11. In lieu of compensation, claimant seeks a waiver of that regulation so claimant can apply to the City of Damascus to divide the 11.34-acre subject property into lots of at least one acre and to allow a single family dwelling to be developed on each lot that does not already contain a dwelling. The subject property is currently undeveloped.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on May 19, 2006. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at www.metro-region.org.

II. SUMMARY OF COO RECOMMENDATION

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that Metro's action to bring claimants' land into the Urban Growth Boundary (UGB), designate it Inner Neighborhood (allowing high-density residential development), and applying a 20-acre minimum lot size temporarily while planning is completed did not reduce the fair market value of claimants' property.

III TIMELINESS OF CLAIM

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from a land use regulation enacted *prior* to the effective date of Measure 37 (December 2, 2004), within two years of that date, or of the date a public entity applies the regulation to the property as an approval criterion in response to an application submitted by the owner, whichever is later; or
2. For claims arising from a land use regulation enacted *after* the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the regulation, or of the date the owner of the property submits a land use application for the property in which the regulation is an approval criterion, whichever is later.

Findings of Fact

The claimant submitted this claim on February 1, 2006. The claim identifies Metro Code section 3.07.1110 C as the basis of the claim. The Metro Council added the regulation that gives rise to this claim on September 10th, 1998 by Ordinance 98-772B, prior to the effective date of Measure 37 (December 2, 2004).

Conclusions of Law

Metro adopted the regulation that gives rise to this claim prior to the effective date of Measure 37. The claim, therefore, is timely.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code section 2.22.020(c) defines "owner" to mean the owner of the property or any interest therein. "Owner" includes all persons or entities who share ownership of a property.

Findings of Fact

The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed December 30, 1977, and have had a continuous ownership interest since that time. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that time. Attachment 1 is a site map of the subject property (ATTACHMENT 1). The subject property is 11.34 acres and is undeveloped.

Conclusions of Law

The claimants, Roger and Ann Miracle, are owners of the subject property as defined in the Metro Code.

2. Zoning History

The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5-Acre (RRFF-5) on June 19, 1980.

3. Applicability of a Metro Functional Plan Requirement

Findings of Fact

In 2002, Metro Council expanded the UGB by adopting Ordinance No. 02-969B, including the claimants' property in the UGB expansion area.

Section 3.07.1110 C of Metro's Code prohibits any division of land into lots or parcels smaller than 20 acres, except for public schools or other urban services, pending adoption of urban comprehensive plan designations and zoning.

The City of Damascus adopted Resolution No. 05-69 on December 19, 2005, waiving certain land use regulations specified in Exhibit B (Staff Report), allowing the claimants to apply to the City of Damascus to divide their property into lots of at least one acre in size and to allow a single-family dwelling to be constructed on each lot not already containing a dwelling, consistent with RA-1 zoning in effect when the claimants acquired the property in 1977 and 1980.

Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimant acquired the property. Thus, the section did not apply to the subject property at the time claimant acquired it. The section does not allow the claimant to partition or subdivide his 11.34-acre property. The claimant would have been able to apply to Clackamas County to create one-acre parcels and develop a single family dwelling on each lot (that did not already contain a dwelling) when the claimants acquired the property in 1977 and 1980.

4. Effect of Functional Plan Requirements on Fair Market Value

Findings of Fact

Section 2.21.040(d)(5) requires the Chief Operating Officer (COO) to determine whether the temporary 20-acre minimum size for the creation of new lots or parcels applicable to territory newly added to the UGB has reduced the value of claimants' land. The COO's conclusion is based upon the analysis of the effect of Metro's action contained in ATTACHMENT 2 (Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel dated May 19, 2006 (Conder Memo)).

Claimants have submitted comparable sales data to support their assertion that the temporary 20-acre minimum size has reduced the value of their property by \$2,400,000. From that data,

claimants assert that the property's current fair market value (FMV), with the temporary 20-acre minimum size in place, is \$300,000. Based on the data, claimants assert that a one-acre parcel for a homesite has a current FMV of \$300,000. County zoning at the time of purchase (1977) allowed creation of one-acre homesites. Claimants believe they could have received approval of nine homesites. Hence, they multiply \$300,000 times the nine homesites they could have created, yielding a value of \$2,700,000. From this value claimants subtract \$300,000 for the asserted fair FMV of the one parcel that is buildable under current regulations. This calculation yields the claimed reduction in FMV of \$2,400,000.

The Conder Memo analyzes the claimant's information and applies two different methods for determining the effect of Metro's action on the value of claimant's property.

A. "Comparable Sales" Method

This method compares the value of the property in its current regulatory setting with its value today as though Metro's action had not happened. The method assumes claimants could have obtained approval for a subdivision at the time claimants made their first purchase in 1977. As explained below in the discussion of the application of the statewide planning goals in 1977, this assumption is doubtful. Nevertheless, the Conder Memo proceeds with this method to demonstrate that, even assuming claimants could have received approval of a nine-lot subdivision in 1977, the current regulatory setting has still not reduced the FMV of their property.

The current regulatory setting is as follows: by Ordinance No. 02-969B, Metro (1) added the property to the UGB; (b) designated the property with the "Inner Neighborhood" 2040 Growth Concept design type designation; and (3) applied a temporary 20-acre minimum lot size to preserve the status quo while the city of Damascus completes the comprehensive planning necessary to allow urbanization of the previously rural (outside the UGB) land. Had Metro's action not happened, the property – given a waiver by Clackamas County – would be outside the UGB under the RA-1 (Residential-Agriculture, one-acre minimum lot size) zoning that applied at the time of claimants' acquisition of the property.

The comparable sales that claimants provide, for reasons explained in the Conder Memo, do not accurately reflect the values with or without Metro's regulatory action. Data generated by Metro's Data Resource Center and analyzed in the Conder Memo provide an accurate assessment of values. ATTACHMENT 3 is a map showing the sample area of 2004-2005 sales data used by Metro Data Resources Center in its analysis.

Table 4 of the Conder Memo compares today's values of the property with and without Metro's action, adjusting in both cases for costs of development and limitations on development of the site that a prudent investor would take into account. The comparison offers a range of lots and lot sizes to reflect the lack of precise information about site limitations. The table shows that the FMV using the most conservative assumptions under the Inner Neighborhood designation inside the UGB slightly exceeds the highest FMV under RA-1 zoning outside the UGB. With less conservative assumptions, the value under the Inner Neighborhood designation greatly exceeds the value under RA-1 zoning.

B. The Plantinga/Jaeger Method

This method assumes that claimants' purchase price in 1977 accurately reflected the development opportunities allowed by the RA-1 zoning that then applied. The method "indexes" that value to the present and compares the indexed value with today's value under the current regulatory scheme. If the indexed value of the purchase price exceeds the value of the property in today's regulatory setting, this methodology says the regulation has reduced the FMV of a claimant's property.

The Conder Memo applies this method using the claimant's purchase prices (two tracts) of 9.32 acres at \$2,000 per acre and 2.02 acres at \$2,500 per acre. The Memo uses four different indices to measure the increase in the value of the property over time. Table 3 shows that, regardless of the index chosen, the value of claimant's property under today's regulations exceeds the indexed value.

C. The Statewide Planning Goals

As noted above, at the time claimants acquired the subject property (1977), Clackamas County zoned the property RA-1, Rural Agriculture – 1 Acre. The claimants assert that they could have divided their 11.34-acre parcel into nine lots under RA-1 zoning, and bases the valuation of his property on this assumption. This assumption, however, is incorrect.

The statewide planning goals were adopted by the Land Conservation and Development Commission and became effective on January 25, 1975. As of the time claimant acquired the subject property in 1977, LCDRC had not yet acknowledged the Clackamas County Comprehensive Plan or its zoning ordinances. Thus, the goals applied directly to claimants' property when they bought it. Given the soils on the property, it was subject to Goal 3 (Agricultural Lands) and 4 (Forest Land), among other goals. Had claimants applied to the county for approval of a nine-lot subdivision, the county would have had to apply state-wide planning Goals 3 and 4 to the application. Given that neither goal would have permitted the land division, the county would have had to deny it.

Claimants' assumption, therefore, that the FMV of their property should be based upon their ability to divide it into nine homesites is not supported by the regulations in place at the time of their acquisition.

Conclusions of Law

The facts and analyses indicate that Metro's action to bring claimants' land into the UGB, designate it Inner Neighborhood (allowing high-density residential development), and apply a 20-acre minimum lot size temporarily while planning is completed did not reduce the FMV of their property.

5. Exemptions under ORS 197.352(3)

Findings of Fact

Section 3.07.1110 C of the Metro Code does not restrict or prohibit a public nuisance, the selling of pornography or nude dancing, is not intended to protect public health or safety, and is not required to comply with federal law.

Conclusions of Law

Section 3.07.1110 C of the Metro Code is not exempt from Measure 37 under ORS 197.352(3).

6. Relief for Claimant

Findings of Fact

The Metro Council has appropriated no funds for compensation of claims under Measure 37. Waiver of Metro Code Section 3.07.1110 C to the subject property will allow the claimant to apply to the City of Damascus to divide the subject property into one acre lots and to develop a single family dwelling on each lot that does not already contain a dwelling. The effect of development as proposed by the claimant will be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated.

Conclusions of Law

Based on the record, the claimant has not established that he is entitled to relief in the form of compensation or waiver of the interim 20-acre minimum lot size requirement under Metro Code Section 3.07.1110 C.

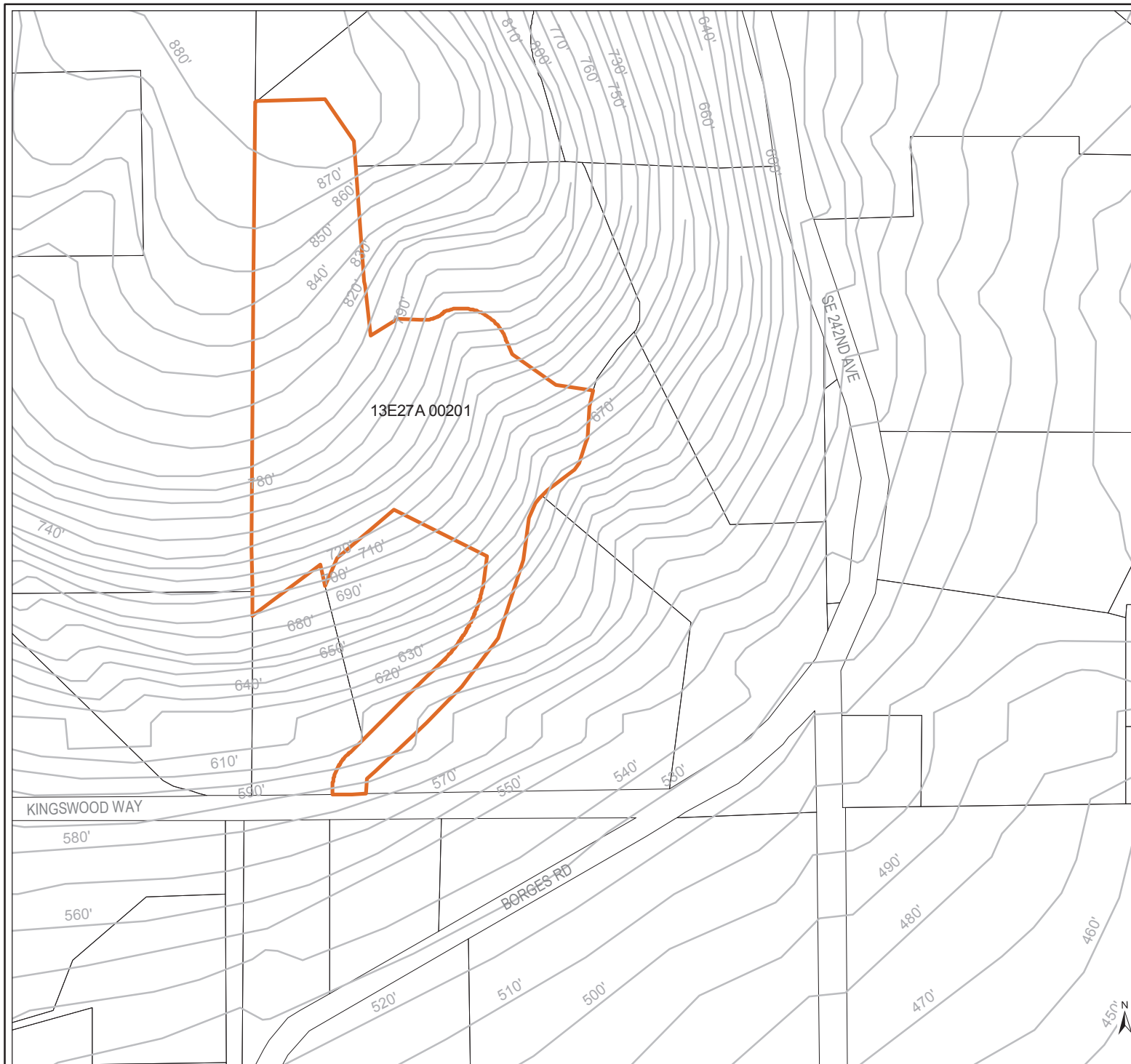
ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Roger and Ann Miracle Property

Attachment 2: Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Roger and Ann Miracle Measure 37 Claim," dated May 19, 2006

Attachment 3: Sample Area of 2004-2005 Sales Data for Damascus UGB Expansion Area and One Mile Buffer, Clackamas County, OR

Attachment 4: Roger and Ann Miracle Measure 37 Claim Submittal to Metro




Resolution No. 06-3706
Attachment 1 COO Report

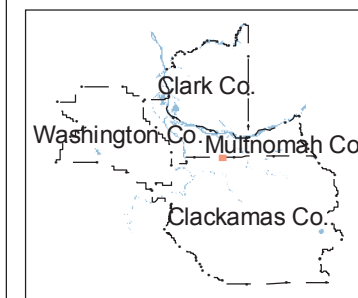
Site Map Miracle Measure 37 Claim

 Subject Property

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

1 inch equals 0.06 miles

 Feet
0 50 100



Location Map



METRO DATA RESOURCE CENTER
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL (503) 797-1742 FAX (503) 797-1909
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Resolution No. 06-3706
Attachment 2: Report of the Chief Operating Officer

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1794



METRO

May 19, 2006

To: Paul Ketcham
Richard Benner

From: Sonny Conder
Karen Hohndel

Subject: Valuation Report on the Roger & Ann Miracle Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Miracle Measure 37 Claim. We conclude that the Metro action of including the property inside the UGB, designating it "Inner Neighborhood" and imposing a temporary 20 acre minimum lot size for development has not produced a material loss of value for the subject property¹. On the contrary, compared to development in a rural residential setting on 1 acre lots, the action is more likely to have resulted in a material gain in property value.

Conceptual Understanding for Basis of Property Value Analysis:

We understand the present Measure 37 valuation problem to consist of making two property value estimates. These are:

1. Estimate the current market value of the property subject to the regulation that the claimant contends has reduced the value of his property.
2. Estimate the current market value of the property in the absence of that regulation, and with the zoning that applies following the waiver granted by the City of Damascus.

¹ We use the term "material" in the accounting/auditing sense that given the statistical variability inherent in the data there is no difference between two measurements of land value.

Resolution No. 06-3706
Attachment 2: Report of the Chief Operating Officer

Metro Ordinance No. 02-969B applied a set of new regulations to the claimant's property. First the ordinance brought claimant's property into the region's urban growth boundary, making the property eligible for urban high-density development rather than rural low-density development. Second, the ordinance designated the property "Inner Neighborhood", the higher density residential designation in Metro's 2040 Growth Concept. Third the ordinance applied a temporary 20-acre minimum lot size to protect the status quo while local governments complete amendments to comprehensive plans to allow urban development. Within this overall framework any particular property may have a substantial range of housing types and lot sizes. Implicit in this design designation is the availability of urban level capital facilities including sanitary sewers, storm water retention and management, water distribution, streets, roads, parks and other infrastructure and services associated with urban living. All development is assumed to occur in compliance with all health and safety regulations.

The default land use is the Clackamas County designation of RA-1. This land use designation is a rural designation allowing one dwelling unit per acre. All development under RA-1 must conform to applicable health and safety regulations. Most significant is that the reference default land use must be outside the present UGB in a rural setting. While seeming to be a subtle distinction, the requirement of a rural setting outside the UGB is conceptually pivotal to the valuation. To use RA-1 or equivalent land inside the UGB as a basis for valuation includes the property value increasing amenity effects of urban services and infrastructure. It is logically contradictory to argue that inclusion inside the UGB and designation of the land for urban purposes has reduced a property's value but to include those very effects in the estimate of the property value without the subject action.

Alternative Method of Computing Property Value Loss Resulting From Regulation

Estimating loss of property value using the usual appraisal method of "comparative sales" has been the subject of substantial criticism. Andrew Plantinga and William Jaeger², economists at OSU, have written papers pointing out that using the method of comparative sales does not compute the loss due to regulation. Rather the estimated "value loss" is actually the gain resulting from obtaining an exemption to the general

² Andrew Plantinga, *Measuring Compensation Under Measure 37: An Economist's Perspective*, Dec. 2004, 15 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: plantinga@oregonstate.edu). William K. Jaeger, *The Effects of Land Use Regulations on Land Prices*, Oct. 2005, 38 pages. (Available at OSU Department of Agricultural and Resource Economics, URL: wjaeger@oregonstate.edu).

Also: William K Jaeger, *The Effects of Land-Use Regulations on Property Values*, *Environmental Law*, Vol. 36:105, pp. 105 – 127, Andrew J. Plantinga, et. al., *The effects of potential land development on agricultural land prices*, *Journal of Urban Economics*, 52, (2002), pp. 561 – 581. and Sonny Conder and Karen Hohndel, *Measure 37: Compensating wipeouts or insuring windfalls?*, *Oregon Planners' Journal*, Vol. 23, No 1. Dec. – Jan 2005. pp. 6 – 9.

Resolution No. 06-3706
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rule. To better understand their arguments, we may think of the comparative sales method of determining an economic loss as equivalent to determining the value of issuing someone a special license or franchise to carry out an economically valuable function that others may not do. For instance, licenses to operate taxi cabs in New York are seldom issued and in great demand. As a result the license itself has acquired substantial economic value. An example closer to home is the value of an Oregon Liquor License prior to more liberal issuing standards in the 80's. In the 1950's through roughly the 70's, an Oregon Liquor License for a restaurant or bar vastly increased the property value of the establishment that had one. Plantinga and Jaeger argue that the value of the property hinges on scarcity resulting from regulation. If everyone had a taxi cab or liquor license, they would have no value. From an economic perspective, using a method that really measures value gained from regulation is not the same as determining economic loss resulting from regulation.

Plantinga and Jaeger go on to suggest an economically appropriate measure of loss resulting from subsequent land use regulation. Their method is grounded in the well established and tested Theory of Land Rent. Simplified a bit the Theory of Land Rent holds that the value of land at any particular time is the future net profit from the land used in its most efficient allowable use. The market also adjusts (discount factor) this value to account for time and uncertainty as to future uses. What this means is that the original sales price incorporates future expectations about how the land might be used. If we take the original sales price and bring it up to the current date by using an appropriate price index, we are able to measure in today's prices what the land was worth when it was purchased under the original regulatory requirements.

The above procedure yields an estimate of the original value of the property in today's dollars. We can then compare that estimate to the market worth of the property with the new regulation. If the adjusted original estimate exceeds the present market value, then the owner has experienced a loss. If the adjusted original estimate is equal to or lower than the property value under the new regulation, then the owner has experienced no loss.

This method allows a consistent computation of property loss due to subsequent regulatory changes. At the same time it avoids awarding particular property owners a bonus that was not anticipated in the original purchase price. Owners are compensated for what they lost; but they are not awarded an extra benefit owing to unanticipated growth, infrastructure investment or regulatory changes.

Since the Plantinga-Jaeger approach represents a consistent and fair method of evaluating economic loss to property resulting from regulation, we are also valuing property claims according to their suggested method.

Property Valuation Analysis Procedure:

Our property valuation analysis procedure consists of the following steps.

- Briefly describe the property and make a prudent assessment of development limitations to establish a likely range of residential capacity under both “Inner Neighborhood” and RA-1 designations assuming health and safety regulations are enforced.
- Based on recent sales (2005) of lots and existing properties inside the Damascus expansion area determine the current (2006) value of the property with a reasonable range of “Inner Neighborhood” development configurations including a 10 year discount factor for lag time in service provision.
- Based on recent sales (2005) of property in a buffer zone extending 1 mile outside the present UGB within Clackamas County determine the value of residential property on lots of .5 to 1.5 acres in size. This procedure establishes a reasonable range of values for residential properties of RA-1 configuration in a rural setting.
- Provide an alternative valuation of the Roger Miracle property based on an adjustment to original sales value that has been advocated by OSU Economists Andrew Plantinga and William Jaeger.
- Evaluate the lot value and home value comparables submitted as evidence with the Roger Miracle Measure – 37 claim. Comment on whether those estimates are logically relevant to establish a Measure –37 property value loss assertion.
- Provide and compare estimates of the value of the subject property as of 2006 with Metro’s “Inner Neighborhood” designation versus Clackamas County’s RA-1 designation.

Roger Miracle Property Description:

The subject property consists of 11.34 acres immediately north of Kingswood Way the 235th block in the community of Damascus. Clackamas County Assessor data show it as a 11.34 acre parcel with no structures. Assessor appraised value as of 2005 is \$169,871. Data submitted with the claim indicate 9.32 acres of the property was purchased in 1977 and 2.02 acres purchased in 1980. Purchase prices were \$2,000 per acre for the 9.32 acres and \$2,500 per acre for the 2.02 acres.

Visual inspection from Kingswood Road and the access road on to the property and air photo inspection as well as relevant GIS data indicate that the property poses substantial limitations to development; the full extent of which would require sanitation, geotechnical and civil engineering professionals to fully delimit and elucidate. The salient limiting feature for development on the property are the steep slopes comprising upwards of 5 acres of the property. In addition single family dwellings have already been constructed on several lots at the base of the slope and adjoining the property on the southwest. Steep slopes constitute a limiting factor for

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both the "Inner Neighborhood" and RA-1 land use designations. Visual inspection of the property substantiates that it should be considered view property as it has wide vistas to the south and east.

Again, it is not in our professional capacity to assert with authority any definitive estimate of what the site limitations are; but rather to reflect what any prudent property investor must consider when pricing raw land. This holds true for both Metro's "Inner Neighborhood" and the default use of RA-1.

Dwelling Unit Capacity Estimates:

For purposes of determining "Inner Neighborhood" capacity we assume that all land between the 620 and 800 foot contours are not buildable. This reduces buildable land for "Inner Neighborhood" to 5.7 acres. For RA-1 it may be conceivable to use another 1.3 acres of the 750 – 800 foot contour on the eastern side of the property assuming home sites are sited within the highest contours. This yields 7 buildable acres for the RA-1 designation.

Based on similar terrain and developments in the UGB expansion area within the City of Happy Valley we calculate that with "Inner Neighborhood" given a range of lot sizes of 5,000 – 12,000 sq. ft., 4 – 6 lots per acre could be constructed on the buildable acreage. This assumes urban level infrastructure and design flexibility in lot shape and structure placement on the lot.

For the RA-1 designation we assume by definition 1 unit per buildable acre. In sum we expect the property with Metro's Inner Neighborhood designation to yield 23 (4 times 5.7 acres) to 34 (6 times 5.7 acres) residential lots ranging from 5,000 to 12,000 sq. ft. in size. The RA-1 designation yields 7 buildable rural lots of 1 acre in size.

Current Value Estimate of "Inner Neighborhood" Buildable Lots in Damascus Expansion Area:

In order to establish a reasonable range of lot values for developing urban areas with infrastructure and nearby urban services, we evaluated all recent sales (year 2005) of land and lots within the Damascus UGB expansion area. As detailed in relevant data file and confirmed by the Clackamas County Assessor's office, one area is under development. It consists of 38 acres that was included in the expansion area and annexed to Happy Valley. Data indicate that 152 lots of 7000 – 10000 sq. ft. have been sold for \$22.6 million for an average of \$149,000 per lot. The lot price range was from \$127,000 to \$175,000. The lots in question are ready to build lots with complete urban services inside the City of Happy Valley. They were also designated "Inner Neighborhood" when included within the UGB and subsequently zoned to R10 by the City of Happy Valley.

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Since these lots were located in the urbanized, extreme western portion of the expansion area, we also examined 97 SFR year 2005 sales of properties designated Inner Neighborhood within the entire expansion area. Many of these sales occurred on properties that remain substantially rural in character without full urban services. Relevant summary results are in Table 1 below.

Table 1: Summary Property Value Data – Damascus Area Residential Sales

Average Lot Size: 1.02 acres
Median Lot Size: 0.95 acres
Average Lot Value: \$119,000
Median Lot Value: \$124,000
Average Total Prop. \$300,000
Median Total Prop. \$288,000
Average House Size: 2,450 Sq. Ft.
Median House Size: 2,350 Sq. Ft.

When we adjust for lot size, view property and the availability of full urban services, the data support a lot value range of \$150,000 to \$175,000 per buildable lot in 2005 dollars for “Inner Neighborhood” type development on the subject property. This value range encompasses a range of housing types and neighborhood conditions.

Current Value Estimate of “RA-1 Buildable Lots” in the 1 Mile Buffer Area Outside the UGB:

To establish the value range for “RA-1” size lots within the Clackamas rural area we selected all residential properties that sold in 2004 and 2005 within the 1 mile buffer zone with a lot size of .5 to 1.5 acres. These comprised 165 properties and their summary statistics are included below in Table 2.

Table 2: Summary Property Value Data – Clackamas Rural Residential (“RA-1”)

Average Lot Size: 0.93 acres
Median Lot Size: 0.96 acres
Average Lot Value: \$145,000
Median Lot Value: \$120,000
Average Total Prop. \$347,000
Median Total Prop. \$285,000
Average House Size: 2,550 Sq. Ft.
Median House Size: 2,400 Sq. Ft.

For purposes of valuation we need to adjust for view property. If we look at 80% of maximum value, we arrive at roughly \$175,000 per lot. Taking 90% of the range yields approximately \$225,000 per lot. We note that a 2 acre daughter lot where a home is

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now under construction was sold in October 2004 for \$125,000. On the assumption that this is high value view property we shall assume a range of \$175,000 to \$225,000 per buildable 1 acre lot for RA-1 rural locations. In so doing we point out that the assumed range is substantially higher than our current sample and generally higher than surrounding properties on 2 – 7 acre lots with comparable views.

Alternative Valuation of Miracle Property Using Method Suggested by Plantinga and Jaeger.

OSU economists Andrew Plantinga and William Jaeger have challenged the “comparable sales” approach of traditional appraisal methods. They have pointed out that it really measures the value obtained by an exception to the current rule; rather than a measure of economic loss suffered as a result of government land use regulation. As an alternative test they propose indexing the price that the property was purchased for to the present time using an appropriate index of property value, investment or consumer price change. Explicit to this suggestion is the Theory of Land Rent which holds that the price paid for land capitalizes reasonable expectations about its future use. If the initial purchase price anticipated a more intense future use, the indexed price should exceed the current market price under the revised land use regulations. If the revised land use regulations are consistent with or exceed the expectations contained in the original purchase price, then the current market price will equal or exceed the indexed price.

Accordingly, we have computed from published sources four value change indices for the period 1977 through 2005. In 1977 the value of the 9.32 acres of raw land amounted to \$2,000 per acre and the 1980 value of 2.02 acres amounted to \$2,500 per acre. Table 3 below converts that value per acre to current 2005 dollars using 4 different value change indices.

Resolution No. 06-3706
Attachment 2: Report of the Chief Operating Officer

**Table 3: Miracle Property Value per Acre Given Market Expectations of Purchase Price
(Plantinga-Jaeger Method)**

Sale One 9.32 Acres 1977:

Index ³	77 Value	2005 Value	Ratio	Value Per Acre 2005 \$
Port/Van CPI	61.6	197.7	3.21	\$6,420
House Value Index	40.4	241.5	5.97	\$11,940
Lot Value Index	13.5	120.0	8.89	\$17,780
S&P500 Stock Idx	95.1	1181.4	12.42	\$24,840

Sale Two 2.02 Acres 1980:

Index	80 Value	2005 Value	Ratio	Value Per Acre 2005 \$
Port/Van CPI	87.2	197.7	2.26	\$5,650
House Value Index	62.9	241.5	3.84	\$9,600
Lot Value Index	18.8	120.0	6.38	\$15,950
S&P500 Stock Idx	121.7	1181.4	9.71	\$24,275

Weighted Average Value:

Index	Value Per Acre 2005 \$
Port/Van CPI	\$6,283
House Value Index	\$11,523
Lot Value Index	\$17,454
S&P500 Stock Idx	\$24,739

All indices except the S & P 500 stock price index are for the Portland Vancouver area. The lot price index uses East Portland values for 1979 and Damascus/Happy Valley values for year 2005. The S & P index is the raw price index; not the real price index which is adjusted for inflation.

Depending on one's philosophy of an appropriate rate of investment return the Miracle Property raw land value per acre should vary between \$6,300 and \$24,700.

Evaluation of Miracle Claim of Comparable Properties

The basis for the Miracle property value loss claim rests on a market value estimate of \$300,000 per developed, ready to build lot assuming 9 buildable lots are available on the property. From this total is subtracted \$350,000 to account for the one buildable lot of 11.34 acres currently permitted. To support the estimate of \$300,000 per buildable lot, 7

³ The Portland – Vancouver Consumer Price Index is for all urban consumers from the Metro Regional Data Book, p. 73. The House Value Index is from the Metro Regional Data Book, p. 95. The Lot Value Index is taken from The Real Estate Report of Metropolitan Portland, Vol. 69, (Autumn 1989) and from Metro RLIS data on taxlots. The S&P 500 Stock Index is from Microsoft Internet Explorer, Wikipedia, the free encyclopedia, S&P500 URL: <http://en.wikipedia.org>

Resolution No. 06-3706
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properties are submitted as comparable⁴. Of the 7, 6 of these properties are located inside of the Urban Growth Boundary. 6 are located within either Happy Valley or Gresham and all occupy prestige neighborhood locations with hilltop views or sweeping vistas. Examination of the Miracle property reveals the site as potentially a prestige neighborhood with a view and potential amenities. However, RA-1 is the rural default land use and can not include urban design amenities. Even areas with view locations in rural areas have property values well below similar areas within urban settings. Whether the area evolves into a prestige urban neighborhood with full amenities remains problematic. As the data in Table 1 underscore, lot values are presently well below the \$300,000 per lot level.

Significant in the valuation of the Miracle property is the assumption that one may count the increase in value associated with being included within the UGB to assert a loss resulting from being included within the UGB.

Miracle Claim Property Values Compared

Given the data developed in the previous Tables we may now summarize our estimates of the value per acre in 2006 for the Miracle property in its present location. To do so we have followed the procedure below.

1. Assume the entire property of 11.34 acres is purchased but convert the value of raw land to dollars per acre.
2. Assume a cost of providing water, sanitary sewer, drainage, streets and other on site utilities plus SDC's of \$50,000 per buildable lot for both Inner Neighborhood and RA-1.
3. Account for the value of time until the property could actually be developed. In the case of Inner Neighborhood we assume 10 years before development; so we discounted the value at 6.5% per year for 10 years. For RA-1 we assume development within 2 years; so we discounted the value at 6.5% per year for 2 years.
4. Convert the resultant values into the estimate of what a prudent investor would pay in 2006 per acre for the raw land.

Table 4 below depicts the results for low and high range assumptions for both Inner Neighborhood and RA-1.

⁴ Parenthetically, all of these properties are identical to or in the same neighborhoods as the properties that were submitted as comparable in the Darrin Black Claim.

Resolution No. 06-3706
Attachment 2: Report of the Chief Operating Officer

**Table 4: Comparison of Estimated Market Value of Raw Land for Inner Neighborhood
and RA-1 Land Uses**

Inner Neighborhood

Low Yield:	23 DU
Low Range Lot Value:	\$150,000
Development Cost per Lot:	50,000
Net Raw Land per Lot:	\$100,000
Total Raw Land Value (23x100,000):	\$2,300,00
Current Market Value per acre for 11.34 acres	
Discounted 10 years:	\$108,000

High Yield:	34 DU
High Range Lot Value:	\$175,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$125,000
Total Raw Land Value (34x125,000):	\$4,250,000
Current Market Value per acre for 11.34 acres	
Discounted 10 years:	\$199,700

RA-1

Low Yield:	7 DU
Low Range Lot Value:	\$175,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$125,000
Total Raw Land Value (7x125,000):	\$875,000
Current Market Value per acre for 11.34 acres	
Discounted 2 years:	\$68,000

High Yield:	7 DU
High Range Lot Value:	\$225,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$175,000
Total Raw Land Value (7x175,000):	\$1,225,000
Current Market Value per acre for 11.34 acres	
Discounted 2 years:	\$95,200

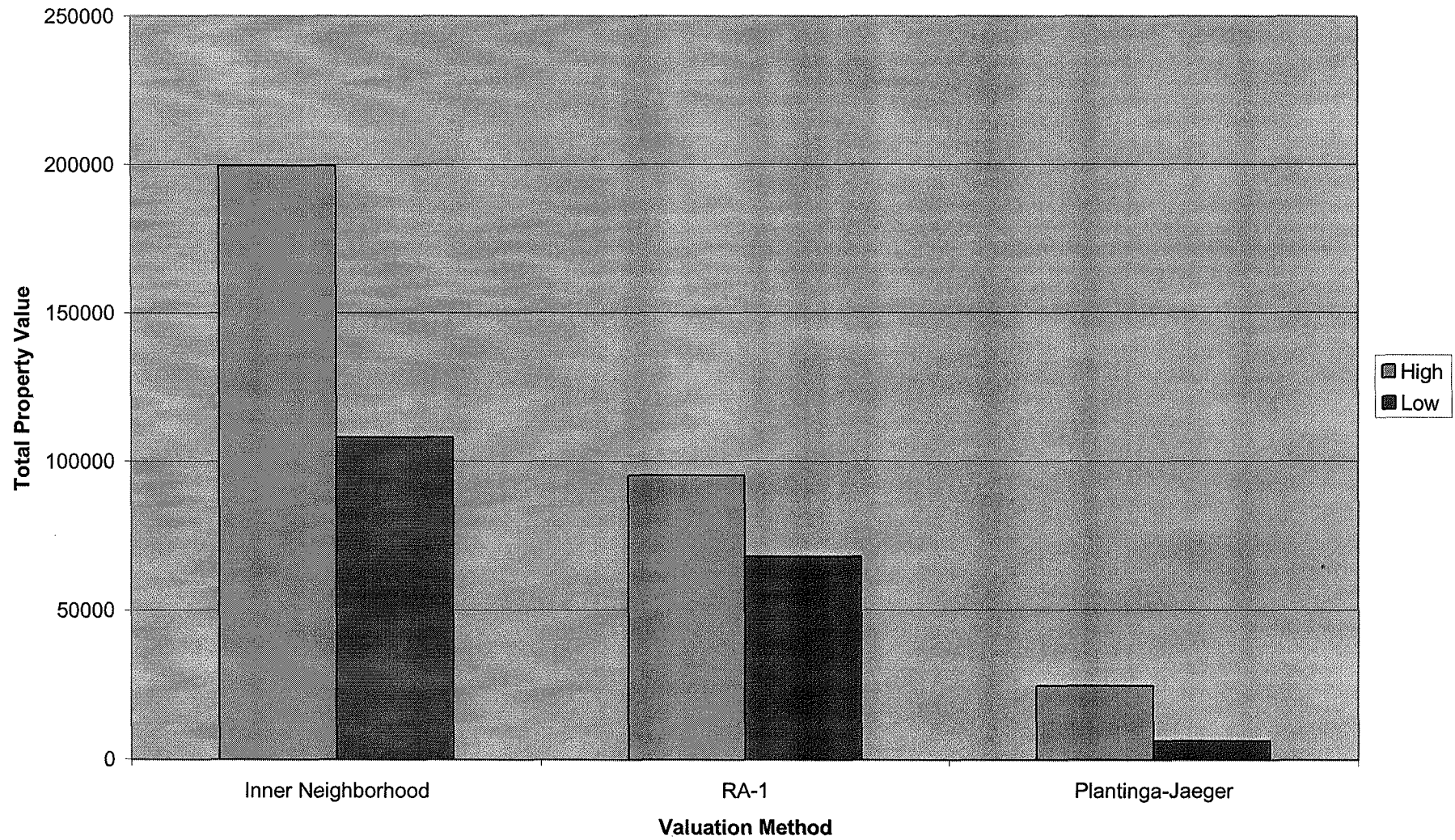
Figure A attached depicts the calculations in Table 4. We estimate the current raw land value of the Miracle property with Inner Neighborhood designation to range from \$108,000 per acre to \$200,000 per acre. The same property used as RA-1 in a rural setting would yield \$68,000 to \$95,200 per acre. In other words the most optimistic RA-1 valuation just equals the most pessimistic Inner Neighborhood valuation. Given these

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results we would conclude that the Inner Neighborhood designation has not reduced the value of the property; quite the contrary it has most likely increased the value.

Moreover, in terms of establishing economic loss the land values per acre established using the Plantinga-Jaeger method range from \$6,300 to \$24,700 per acre. The highest Plantinga – Jaeger estimate is below the lowest “comparative sales” estimate of RA-1 per acre. Clearly, under no circumstances has any regulatory change to the Miracle property reduced its value. Again, the contrary is the case. Growth, infrastructure investment and regulation necessary to orderly growth have produced increases in property values well in excess of any alternative investment for the Miracle property.

Figure A: Miracle Property Value with Metro, RA-1 and Plantinga-Jaeger Valuation



REGIONAL SERVICES

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METRO

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Richard P. Benner
Tele: (503) 797-1532
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May 12, 2006

Barton C. Bobbitt
ATTORNEY AT LAW
4380 SW Macadam Avenue, Suite #500
Portland, Oregon 97239-6412

Re: *Miracle M 37 Claim*

Dear Mr. Bobbitt:

Metro is in the midst of evaluating the Measure 37 claim of Roger and Ann Miracle. We are not able to determine the purchase prices of the parcels that comprise the Miracles' ownership from the materials you submitted. This information is important to our analysis of reduction in the fair market value. Please submit some documentation of the purchase prices so we can complete our analysis.

Thank you.

Very truly yours,

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

cc: ~~Paul Kerschman, Metro Planning Department~~
Karen Hohndel, Metro Planning Department

RPB:kwv
m:\attorney\confidential\7.2.2.16.25\051206bcb.001



METRO

Richard P. Benner
Tele: (503) 797-1532
FAX: (503) 797-1792

March 27, 2008

Barton C. Bobbitt, P.C.
ATTORNEY AT LAW
4380 SW Macadam Avenue, Suite #500
Portland, Oregon 97239-6412

Re: *Measure 37 Claim – Roger & Ann Miracle*

Dear Mr. Bobbitt:

Metro received the claim you filed with Clackamas County on behalf of Roger and Ann Miracle on February 2, 2006. I have enclosed a copy of the Metro claims process, which includes the contents of a claim for filing with Metro.

As I mentioned on the telephone this afternoon, Metro will use the February 2 date as the claim date for the running of the 180 days for processing.

Please call me (503.797.1532) if you have questions about the claims process or the claim itself.

Very truly yours,

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

Enclosure: Claims Process

cc: Dan Cooper, Metro Attorney
Paul Ketcham, Metro Planning Department

RPB:kw
m:\attorney\confidential\7.2.2.16.25\030806bcb.001

CHAPTER 2.21

CLAIMS UNDER BALLOT MEASURE 37

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under Ballot Measure 37. Metro adopts this chapter in order to afford property owners the relief guaranteed them by Ballot Measure 37 and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement Measure 37 faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.

(Ordinance 05-1087A, Sec. 1.)

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.

(b) "Family member" means the wife, husband, son, daughter, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of

location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;

- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;
- (4) A copy of any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the land use regulation that applied to the property at the time the claimant acquired the property;
- (6) An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data;
- (7) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (8) A statement whether the claimant is filing claims with other public entities involving the same property.

(c) A claim shall not be considered complete for purposes of subsections (4) and (6) of Ballot Measure 37 until the claimant has submitted the information required by this section.

(Ordinance No. 05-1087A, Sec. 1.)

2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by Section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide

or conditions apply to the proposed use under the regulation;

- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from Ballot Measure 37 under subsection 3 of the measure; and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt from Ballot Measure 37, the regulation restricts the proposed use and the restriction has reduced the value of the property.

(e) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of Ballot Measure 37, and to assist in the development of a recommendation regarding appropriate relief if the claim is found to be valid.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the owner and other persons who request a copy. If the COO determines that the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

(Ordinance No. 05-1087A, Sec. 1.)

2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on the claim before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under Section 2.21.030.

2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under Section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this chapter. The Council shall place a condition on a decision under Section 2.21.060(a)(2) or (3) that the decision constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under Section 2.21.060(a)(2) or (3).

(Ordinance No. 05-1087A, Sec. 1.)

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under Section 2.21.060, the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

(Ordinance No. 05-1087A, Sec. 1.)

BARTON C. BOBBITT

HOWARD I. BOBBITT
(1912-1999)

BARTON C. BOBBITT, P.C.

ATTORNEY AT LAW
4380 S.W. MACADAM AVENUE
SUITE 500
PORTLAND, OREGON 97239-6412

RESOLUTION NO. 86-3796
Attachment 4: COB Report
DIRECT LINE (503) 223-2321
PHONE (503) 223-2321
FAX (503) 294-6051

EMAIL: BBob924517@AOL.com

February 1, 2006

Via Certified Mail with
Return Receipt Requested

Mr. Michael Jordan, CEO
METRO
600 NE Grand
Portland, OR 97232-2736

Re: Measure 37 Claim - Roger & Ann Miracle

Dear Mr. Jordan:

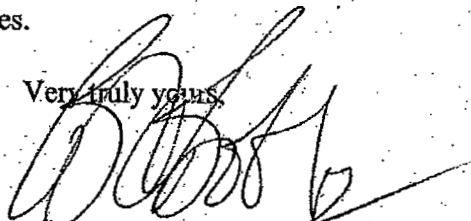
This firm represents Mr. & Mrs. Miracle who are owners of certain property located in Damascus, Oregon. I am enclosing herein an original Measure 37 claim which has been filed with Clackamas County Planning Division and the State of Oregon. I am also enclosing herein a copy of the Staff Report which was adopted by the City Council on December 5, 2005 which provided for a waiver of the restrictions upon the property. The claim was filed with Clackamas County/City of Damascus, on October 3, 2005 and the 180 period provided under Section 4 of Measure 37 will expire on April 2, 2006. The City of Damascus, in their resolution, specifically provided under the additional comments, that:

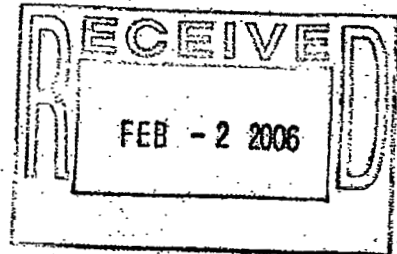
1. METRO will also have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within Portland Metropolitan Urban Growth Boundary that are now planned or zoned for urban growth uses. Therefore, this claim has been submitted to METRO for their evaluation.

I have also attached to the Measure 37 claim a statement alleging the claim of diminished value because of the effect of the restrictions upon the subject property by the Urban Growth Management Functional Plan.

Thank you for your courtesies.

Very truly yours,


Barton C. Bobbitt, P.C.



Measure 37 Claims Distro List:

☐ Dan Cooper
☒ Dick Benner
☐ Docket-OMA
☐ Lydia Neill

RECEIVED

FEB - 2 2006

BCB/seb
cc: client

OFFICE OF METRO ATTORNEY

C:\Client Files\1215.7\Jordan.01.wpd

PLANNING DIVISION STAFF REPORT
TO THE DAMASCUS CITY COUNCIL
MEASURE 37 CLAIM

RECEIVED
NOV 28 2005
CITY OF DAMASCUS

File Number: ZC286-05
Report Author: Jennifer Hughes, Senior Planner
Hearing Date: December 5, 2005
Report Date: November 23, 2005

Claimant(s): Roger and Ann Miracle

Date Filed: October 4, 2005

180-Day Processing Deadline: April 2, 2006

Legal Description: T1S-R3E-SECTION 27A-TAX LOT 201

Location: 9390 SE Kingswood Way, Damascus

Proposal/ Relief Requested: The claimants request compensation in the amount of \$2,400,000 as a result of a reduction in fair market land value caused by the enforcement of land use regulations. In the alternative, the claimants request to divide the subject property into lots with a minimum lot size of one acre and develop a single-family dwelling on each lot.

Ownership History/Date Acquired by Claimant(s): The claimants acquired an ownership interest in 9.32 acres of the subject property through a purchase contract executed on December 30, 1977, and have had a continuous ownership interest since that date. The claimants acquired an ownership interest in the remaining 2.02 acres of the subject property through an addendum to the 1977 purchase contract executed on June 2, 1980, and have had a continuous ownership interest since that date.

Zoning History: The first zoning of the property was Rural (Agricultural) Single Family Residential District (RA-1), applied on September 8, 1964. The property was rezoned Rural Residential Farm Forest 5 Acre on June 19, 1980.

Reduction in Land Value: The claimants assert that the inability to divide the property and develop single-family dwellings has reduced the property's value by \$2,400,000. The claimants have submitted a comparative market analysis to substantiate the reduction in value. This is sufficient to verify that the inability to divide the property to create

additional building lots results in a loss in property value, although the exact amount of the loss is unknown.

Discussion: The subject property is approximately 11.34 acres and is undeveloped.

The property currently is zoned RRFF-5. The RRFF-5 zone typically has an average minimum lot size standard of five acres; however, the subject property is within the Urban Growth Boundary, where the RRFF-5 zone imposes a 20-acre minimum lot size. Even with a five-acre minimum lot size standard, the subject property could not be divided because it is part of a flexible-lot-size partition of a 15.34-acre parcel recorded in 1993. The 15.34-acre parcel was only eligible for division into three parcels under the RRFF-5 zone.

The property was zoned RA-1 when the claimants acquired it in 1977 and 1980. The RA-1 zone has a minimum lot size of one acre.

The current RRFF-5 zoning has resulted in a reduction in land value as compared to the RA-1 zoning in effect when the claimants acquired the property. The facts discussed above demonstrate a valid Measure 37 claim.

Remedy: The City Council must decide whether to compensate for the reduction in value, or modify, remove or not apply the land use regulations that have caused the reduction in value. If permission to divide the property and develop additional dwellings is not granted, the claimant requests compensation of \$2,400,000. The city has no funds allocated to provide compensation.

Recommendation: Based on the facts discussed above, staff recommends the City Council do the following, in order to allow the subject property to be divided into a maximum of 13 lots and to allow a single-family dwelling to be developed on each lot not already containing a dwelling:

- Find the claim valid
- Not apply to the subject property the following land use regulations:
 - Subsection 309.07(D) of the Damascus Zoning and Development Ordinance (minimum lot size standard of the RRFF-5 zone within the Portland Metropolitan Urban Growth Boundary)
 - Subsection 309.08(B) of the Damascus Zoning and Development Ordinance (ZDO) (minimum lot size standard of the RRFF-5 zone)
 - Subsection 902.01.B of the ZDO (minimum lot size restrictions and exceptions)
 - Subsection 1014.04.B (minimum lot size restrictions for flexible-lot-size developments)

- Subsections 1020.04.A and B (lot line adjustment standards)
 - Any provisions of the Comprehensive Plan that can be construed as imposing a minimum lot size that is larger than otherwise allowed by this order
- In review of a specific proposal for development, remove any other land use regulations, other than those exempted by Section 3 of Ballot Measure 37, which have the effect of reducing the number of lots or dwellings otherwise allowed by this order
- Require that approval of a land division shall be subject to the minimum lot size standards of the RA-1 zone in effect on December 30, 1977 for the 9.32 acres acquired on that date and June 2, 1980 for the 2.02 acres acquired on that date
- Require that division and development of the property shall be subject to all other current land use regulations
- Include the following disclaimer in the order, "This decision was rendered pursuant to the requirements of Measure 37. Measure 37 has been ruled invalid by an Oregon Circuit Court, and is being appealed to the Oregon Supreme Court. If the Supreme Court upholds the decision that Measure 37 is invalid, any approvals or denials issued under Measure 37 may be found to be void. If Measure 37 is ruled to be invalid, the landowner may be responsible for all costs relating to reversing the decision, including but not limited to the removal of any structures that were deemed to have been approved contrary to law."

Additional Comments:

1. Metro also will have to evaluate a claim for this property. The Urban Growth Management Functional Plan includes restrictions on the development of lands within the Portland Metropolitan Urban Growth Boundary that are not planned or zoned for urban uses.
2. City approval of a partition (two or three lots) or subdivision (four or more lots) to divide the property must be secured.
3. Approval of a domestic water source, on-site sewage disposal and construction permits (e.g. building, plumbing and electrical) will be required for any new dwelling. A driveway permit may also be required. (Several of these issues will be addressed during partition or subdivision review.)
4. The recommended action does not resolve several questions about the application of Measure 37, including the question of whether the rights granted to the claimants by this decision can be transferred to an owner who subsequently acquires the property.

MEASURE 37 CLAIM
CLACKAMAS COUNTY PLANNING DIVISION
9101 SE SUNNYBROOK BLVD., CLACKAMAS, OREGON 97015
PHONE (503) 353-4500 FAX (503) 353-4550 www.co.clackamas.or.us

FOR STAFF USE ONLY

FILE NUMBER: _____ DATE RECEIVED: _____
STAFF MEMBER: _____ CPO: _____

APPLICANT INFORMATION
(PLEASE TYPE OR PRINT IN BLACK INK ONLY)

WHAT IS PROPOSED Request current zoning be waived and original
zoning be restored

LEGAL DESCRIPTION: T_{1S} R_{3E} SECTION 27 A TAX LOT(S) 201
T_{1R} SECTION _____ TAX LOT(S) _____

(ADDITIONAL) _____

NAME OF CONTACT PERSON Roger J. Miracle
MAILING ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE (503) 667 4330 ; CELL PHONE Work Phone 503 661 9010

PROPERTY OWNER(S) (The name, address and telephone number of all owners, including their signatures, must be provided. In the event there are more than 3 property owners, please attach additional sheets. Please print clearly)

OWNER 1 Roger J. Miracle
SIGNATURE Roger J. Miracle
ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE 503 667 4330 CELL PHONE Work Phone 503 661 9010

OWNER 2 Ann M. Miracle
SIGNATURE Ann M. Miracle
ADDRESS 806 SW Wilson Court
CITY Gresham STATE OR ZIP 97080
PHONE 503 667 4330 CELL PHONE 503 975 4330

OWNER 3 _____
SIGNATURE _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____
PHONE _____ CELL PHONE _____

12/2/2004

MEASURE 37 CLAIM **SUPPLEMENTAL INFORMATION**

(Attach additional sheets as necessary to complete this supplemental portion of the claim)

1. **Other persons with an interest in the property (such as lien holders):** Please provide a list of the name, address and phone number of anyone with an interest in the property, and identify their interest.

NONE

2. **Exact date the current owner acquired the property?** December 30, 1977.*

*See attached letter of explanation

3. **If the current owner acquired the property from a family member, what is the exact date the family member acquired the property?**

N/A

If there is more than one event where the property was acquired from a family member, such as a series of inheritances, please provide a list of all such events and their dates.

N/A

4. **What regulation (if more than one, please describe) do you believe lowered the value of your property? When did the regulation take effect?**

The change in zoning laws in 1979 effectively changed my original purchase of 13.26 acres from one acre parcels to current 5-acre minimums.

5. **Please describe how this regulation(s) restricts the use of the property and reduces the property's fair market value.** Under current zoning I have one building site. With zoning restrictions waived I will have one acre parcels which will have a much greater value.

12/6/2004

6. How much has the fair market value of your property been reduced by enactment or enforcement of the regulation(s)? Approximately \$2.4 million*

* See attached Market analyses

7. Are you requesting compensation, or removal of the regulation(s), modification of the regulation(s), or a decision not to apply the regulation(s)? If you are requesting monetary compensation, please indicate how much and how you calculated this sum. *[Please note that the County has exclusive authority to choose whether to pay monetary compensation, or remove, modify or not apply the regulation(s) causing a valid claim.]*

We are requesting that said property be returned to original zoning

8. Are you requesting that a specific use be allowed? Please describe the use.

We are requesting zoning be changed to original state which would allow one-acre buildable parcels.

9. The following additional material must be submitted with the application:

- a. A real property appraisal performed by a licensed or certified appraiser licensed in Oregon; the appraisal must meet the Uniform Standards of Professional Appraisal Practice and the requirements of County's Measure 37 Claims Process Ordinance;
- b. A title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation proving ownership of the property;
- c. Copies of any leases or covenants, conditions and restrictions applicable to the property and any other documents that impose restrictions on the use of the property;
- d. Claims processing fee – \$750.00

12/6/2004



M37 Claim Form

INSTRUCTIONS FOR SUBMITTING A CLAIM

This form requests specific information that is required of a claimant by OAR 125.145.0010-.0120. A Claimant must fully complete each box of the claim form and provide all information and evidence to support the claim. In lieu of completing each box or section on this form, a Claimant may attach supplemental documents to provide the requested information. Attached documents shall not be used to complete section 1 and 2, or any section which requires a signature.

- Claims may only be submitted by an Owner or an Authorized Agent of the Owner.
- Claims may only be submitted; in person; by private carrier; by U.S. Postal Service Certified or by Registered Mail to:
Risk Management-State Services Division, 1225 Ferry St. SE, U160, Salem OR 97301- 4292
- Only Original Signed Claims will be accepted, claims submitted electronically or by facsimile, **will not be accepted.**
- Attach separate sheet of paper as needed, with reference to the appropriate **Section number on this form.**
- Claim criteria/requirements may be found in Oregon Administrative Rules 125.145.0010 – 0120

Section 1 NAME AND CONTACT INFORMATION OF CLAIMANT/PROPERTY OWNER

Enter the name and contact information of the PRIMARY property owner who is submitting the claim.

Name of Claimant:	ROGER J. MIRACLE		
Day Time Phone #:	503 661-9010		
Address:	806 SW WILSON CT.		
City:	GRESHAM	State:	OR
Zip:	97080		

Section 2 NAME AND CONTACT INFORMATION OF PERSON SUBMITTING CLAIM (AGENT)

Enter the name and contact information of the person who is sending the claim for the property owner if different than the name in Section 1 above.

Name of Agent:	Day Time Phone #:		
Address:			
City:	State:	Zip:	
Must attach a written notarized statement signed by the owner(s) or a Power of Attorney properly authorizing submittal of this claim.			
Attachment: Yes <input type="checkbox"/> No <input type="checkbox"/>			

Section 3 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY

Enter the name and contact information of every person or entity who has an interest in the property. This includes but is not limited to:

- (a) Every lessee and lessor of the Property;
- (b) Every person or entity holding a lien against, or a security interest in, the Property;
- (c) Every person or entity holding a future, contingent, or other interest of any kind in the Property.

This could be other owners, banks, mortgage companies, state or federal agencies or entities, programs specific to the use of the property and any and all others with any interest in the property. Some examples could be; a USDA program providing funds for an owner not to grow a particular crop on the land, banks with second third or other mortgage interest. If using an attachment, the attachment must be submitted in such a format as to easily distinguish the various owners and interest in the property.

Name: <i>ANN M. MIRACLE</i>		Day Time Phone #: <i>503 661-9010</i>	
Address: <i>806 SW WILSON CT.</i>			
City: <i>GRESHAM</i>		State: <i>OR</i>	Zip: <i>97080</i>
Describe Interest in Property:			

Name:		Day Time Phone #:	
Address:			
City:		State:	Zip:
Describe Interest in Property:			

Name:		Day Time Phone #:	
Address:			
City:		State:	Zip:
Describe Interest in Property:			

Name:		Day Time Phone #:	
Address:			
City:		State:	Zip:
Describe Interest in Property:			

Name:		Day Time Phone #:	
Address:			
City:		State:	Zip:
Describe Interest in Property:			

Section 4 PROPERTY FROM WHICH THE CLAIM DERIVES

Enter the location of the property, all contiguous property, upon which the claim is based. This description is by street address, legal description, and other descriptors which allow a concise description of the property allowing its location, size, and other physical attributes to be ascertained. Attachment if Applicable ☐

Street Address: if applicable 9390 SE KINGSWOOD WAY		City: GRESHAM	
County: CLACKAMAS	State: OR	Zip: 97080	
Tax Lot #: 201	County Tax Assessor's Map Reference # & Date: 153E27A 8-22-01		
Township: 1 SOUTH	Range: 3 EAST		
Section: 27 A			
Other Legal Description Information:			

Section 5 EVIDENCE OF OWNERSHIP

Include evidence or information describing the length and extent of ownership of the property, any encroachments, easements, Covenants Conditions and Restrictions, and federal, state and local restrictions on the Property, including all applicable zoning, comprehensive plan and other land use and development regulations. Examples may include; an owner who lives and works on the property, but does not own the mineral rights or a property owner who has easements for neighbors to use roads and the local power company to traverse the property with power or other cables.

The following is attached as proof of ownership: (list all attachments)	1.) DEEDS 2.) TITLE REPORT 3.) HISTORICAL EXPLANATORY LETTER-CLACK.CO. 4.) ORIGINAL PURCHASE CONTRACT
Date of Acquisition of Property:	12-30-77
Nature & Scope of Ownership of Property: Attachment if Applicable <input type="checkbox"/>	
All Encroachments, Easements, etc. (see OAR 125-145-0040 (8) for further information) Attachment if Applicable <input type="checkbox"/>	

Section 6 INTENDED USE OF PROPERTY

What is the intended use of the property that is currently prohibited by state regulations? _____

DEVELOPABLE 1-ACRE LOTS

Section 7 NATURE AND MANNER OF RESTRICTION

List each Land Use Regulation on which the Claim is based and include evidence or information that demonstrates the manner in which each cited Land Use Regulation restricts the use of the Property compared with how the owner was permitted to use the Property under Land Use Regulations in effect at the time the owner acquired the Property.

Law or Rule: Attachment if Applicable <input type="checkbox"/>	CLACK CO. ZONING CODE 309.08 B	Describe how this Land Use Law or Rule restricts the use of this property: REQUIRES 5-ACRE MINIMUM LOT SIZE
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Describe how this Land Use Law or Rule restricts the use of this property:

Section 8 DATE ON WHICH EACH CITED LAND USE REGULATION BEGAN TO APPLY TO SUBJECT PROPERTY

List each Land Use Regulation on which the Claim is based and include evidence or information that demonstrates the date on which each cited Land Use Regulation began to apply to the Property.

Law or Rule: Attachment if Applicable <input type="checkbox"/>	SEE SECTION 7	Date of Effect: 12-17-79
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:

Section 9 AMOUNT OF PROPERTY VALUE REDUCTIONRESOLUTION NO. 06-3706
Attachment 4: COO Report

Enter the amount of Fair Market Value reduction to the Property caused by each cited Land Use Regulation. (Refer to Sections 6 & 7 above). Attach evidence or provide information to support the basis and rational for the reduction in Fair Market Value.

Fair Market Value Reduction Amount \$: 2,350,000	Law or Rule SEE SECTION #7	Basis of Evaluation: MARKET ANALYSIS (ENCLOSED)
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:

Section 10 AUTHORITY TO ENTER PROPERTY

This section of the form authorizes the Department, the Regulating Entity and their officers, employees, agents, and contractors to enter the Property as necessary to verify information, appraise the property, or conduct other business related to this claim. Each person that can restrict access to the property must sign in the appropriate box in this section.

I/We Affix Our Signature(s) to this Form Granting Access to the Subject Property in ANY Manner or Form Deemed Appropriate by State Agency or Agencies for the Review of the Property in Furtherance of the Processing or Handling of this Claim:
SIGNATURES OF ALL OWNERS WITH AUTHORITY TO RESTRICT ACCESS

Printed Name: ROGER J. MIRACLE	Signature: <i>Roger J. Miracle</i>
Interest in Property: CO-OWNER	<i>Roger J. Miracle</i>
Printed Name: ANN M. MIRACLE	Signature: <i>Ann M. Miracle</i>
Interest in Property:	<i>Ann M. Miracle</i>
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	
Printed Name:	Signature:
Interest in Property:	

Section 11 ATTACHMENTS

Check the appropriate box for all documents, evidence and supporting information that is attached and included as a part of this claim.

Title Report: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Deed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Appraisal(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Covenants, Conditions & Restrictions: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Affidavits: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Map(s) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Deferrals: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Tax Reductions: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Participating Federal Programs: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		<input type="checkbox"/> Other Information:(Explain) REAL ESTATE VALUATION	
<input checked="" type="checkbox"/> Other Information:(Explain) LETTER FROM CLACK. CO.		<input checked="" type="checkbox"/> Other Information:(Explain) PURCHASE CONTRACT	

Section 12 OTHER CLAIMS FILED

List all other governmental entities you or someone on your behalf has submitted claims to regarding the Property involved in this claim. List all claims submitted to the state or other entities relating to this property or any portion thereof on anyone's behalf. You must list all entities even if you only submitted a claim to them for a portion of the Property that is the subject of this claim.

Have you submitted a claim to another governmental entity regarding the property listed in this claim?	
No <input type="checkbox"/>	
Yes <input checked="" type="checkbox"/> Date: 10-3-05 To Whom:	CLACKAMAS CO.
Yes <input type="checkbox"/> Date: To Whom:	
Yes <input type="checkbox"/> Date: To Whom:	
Yes <input type="checkbox"/> Date: To Whom:	

ADDITIONAL INFORMATION THAT MAY BE SUBMITTED IN SUPPORT OF THIS CLAIM

1. A report by a certified appraiser that addresses the Reduction in Fair Market Value of the Property resulting from the enactment or enforcement of the cited Land Use Regulation(s) as of the date the Claim was filed;
2. A statement of the effect of the cited Land Use Regulation(s) on any Owner's tax status, including without limitation any tax deferrals or tax reductions related to the cited Land Use Regulation(s);
3. Citation to each Land Use Regulation(s) in effect at the time the owner acquired the property explaining how the use that is now not permitted by the Land Use Regulation(s) set forth in Oregon Administrative Rules (OAR) 125-145-0040(9) was permitted at the time the owner acquired the property;
4. Names and addresses of Owners of all real property located within 100 feet of the Property if the Property is located in whole or in part in an urban growth boundary, 250 feet of the Property if the Property is located outside an urban growth boundary and not within a farm or forest zone and 750 feet of the Property if the Property is located in a farm or forest zone.

I ATTEST THAT I HAVE FILLED OUT THIS FORM COMPLETELY AND THIS CLAIM IS TRUE
AND CORRECT. (Signatures of all parties preparing this form.)

Roguy J. Miral 1 1 10-3-05
Signature Date

Ann M. Miral 1 1 10-3-05
Signature Date

Ann M. Miral 1 1
Signature Date

Signature Date

Signature Date

Signature Date

State of Oregon

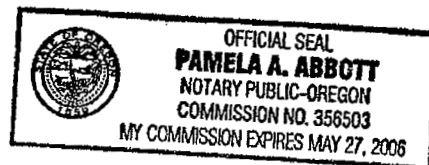
County of Multnomah

Signed and sworn to before me on October 3, 2005 by
(month - day - year)

Pamela A. Abbott
(Notary Public - State of Oregon)

▼ ▼ ▼ Notary Seal ▼ ▼ ▼

My commission expires: 5-27-06



October 3, 2005

Clackamas County Planning Division
9101 SE Sunnybrook Blvd.,
Clackamas, OR 97015

Re: Roger and Ann Miracle, MEASURE 37 CLAIM

Dear Sirs:

I am enclosing this letter of explanation to hopefully provide you with a 'quick' review of our property history. We are also providing as much documentation as possible but it might be somewhat confusing if the history is not known on this property. If in your processing of this claim you have any questions I would be more than happy to talk with you. Call my office number of (503) 661-9010.

On December 30, 1977 we purchased 13.26 acres from the Yunker family (Parcel I of the Yunker Heights Major Partition). When this land was purchased, a two-acre parcel was deeded over to us directly (see copy of deed) and the remaining 11.26 acre-parcel was purchased on a note. Because the two-acre parcel was deeded over to us, a separate tax lot was created (tax lot 202) while the remaining 11.26 acres (carried on a note) formed tax lot 201. The deed for the 11.26 acres was conveyed to us when we paid off the note on 8/26/80. Together, these two tax lots, no. 201 and no. 202, comprised Parcel I of the County approved Major Partition, file no. MP-4-76, platted in 1977 as Major Partition no. 41, Yunker Heights.

On August 26th, 1980 we made an additional purchase of the land that comprised tax lot 208. This land, added to our previous purchase brought our total acreage to 15.35 acres. The 15.35 acres consisted of tax lots 201, 202, and 208 – three tax lots comprising one legal lot of record.

In 1992, we created a flexible lot size partition (file no. Z0489-92-M). Two tax lots of 2 acres each were created and sold – tax lots 214 and 215. The remaining portions of tax lot 201, all of tax lot 202, and all of tax lot 208 were now combined into the one tax lot, no. 201, totaling 11.34 acres. This tax lot 201 is the current tax lot as of this day.

Although there have been changes made over the years, the bottom line is this: tax lot 201 consists of 9.26 acres which were purchased on December 30, 1977 with the remaining acreage being that of the old tax lot 208 which was purchased on August 26th, 1980.

I am also attaching a letter written to me on June 14, 2000 by Rick McIntire of the Clackamas County Planning Department outlining the history on this parcel.

I hope this has been of assistance to you.

Regards,


Roger J. Miracle



*Clackamas
County*

Sunnybrook Service Center

RESOLUTION NO. 19-8700
Attachment 4: COO Report
**DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT**

June 14, 2000

THOMAS J. VANDERZANDEN
DIRECTOR

Roger Miracle
806 SW Wilson Ct.
Gresham, OR 97080

Via Facsimile to 666-9054

Subject: Tax lots 201, 214 & 215; Map no. 1-3E-27A

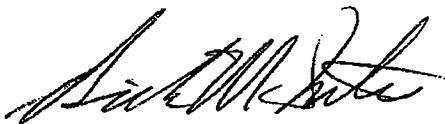
On June 13, 2000, you spoke with Jennifer Hughes of this office concerning the Lot of Record status of tax lots 201, 202 and 208 in map no. 1-3E-27A. The latter two tax lots no longer exist as a result of the partition approved in 1992. The current tax lot numbers are 201, 214 and 215. You have asked for an explanation of the results of the Research Request dated Nov. 16, 1991 done for you by Mike McCallister of this department. At that time, Mike found that the original tax lots, 201, 202 and 208 combined form one (1) legal lot of record. Tax lot 201 contained 11.26 acres, tax lot 202 contained 2.00 acres and tax lot 208 contained 2.02 acres. The combined area was 15.35 acres. Subsequently, you obtained approval of a partition, Planning file no. Z0489-92-M, to create three (3) separate lots of record. The approved parcels are now the current tax lots 201, 214 and 215. Your concern appears to be that the 1991 finding that the three tax lots comprised only one (1) Lot of Record may have been incorrect and that you may have been able to create a fourth parcel by dividing tax lot 201 (11.26) acres into two (2) parcels without involving tax lots 202 and 208. The subject property is zoned RRFF-5. In this zoning district, the maximum allowable density is one (1) dwelling unit per five (5) acres.

The original tax lot 201, containing 13.26 acres inclusive of tax lot 202, was created as a result of a County approved Major Partition, file no. MP-4-76, platted in 1977 as Major Partition no. 41, Yunker Heights. The combination of tax lots 201 and 202 was Parcel 1 of that plat. Parcel 1 was sold to you in 1977 on contract. Tax lot 208 (2.02 acres) was originally part of Parcel 2 of that plat. Parcel 2 originally contained all of current tax lots 210 and parts of tax lots 211 and 212 as well. The total area of Parcel 2 was 10.13 acres. Subsequently, tax lot 202 (2.00 ac.) was split from the north end of tax lot 201 in 1978 and deeded to you. There is no record of a County-approved partition to create tax lot 202 as a legal lot of record. Such approval was required to create any parcels in the rural area containing less than 20 acres by ordinance adopted in August of 1974. Therefore, the creation of this parcel was not done in compliance with County ordinance requirements.

In 1980, a subdivision, Hogan Road Heights, was approved to subdivide the remaining area of the original tax lot 200 into five (5) lots. The plat area contained all but 2.02 acres of Parcel 2 of Major Partition no. 41. This 2.02 acre tract was sold to you in 1980 and became

tax lot 208. Again, no partition approval was granted by the County to create this parcel as a legal lot of record. In essence, it was a lot line adjustment between tax lot 200 and the combination of tax lots 201 and 202. As a result, by 1980 you were in possession of a single 15.35 acre lot of record comprised of three (3) separate tax accounts. Tax lots 202 and 208 were not lawfully created lots of record under the County Subdivision and Partition Ordinance requirements in effect at the time these parcels were created. Subsequently, you partitioned this acreage into three (3) new parcels, current tax lot nos. 201, 214, and 215 (file no. Z0489-92-M). This partition was approved as a flexible lot size partition; i.e. two of the parcels were less than five (5) acres in size. Tax lot 201 is 11.34 acres in size, but cannot be divided under the existing RRFF-5 zoning. The 1992 partition "used up" the density allowed to the original 15.35 acre parcel by creating the maximum allowable number of parcels (three) under this zoning classification.

If you have any further questions concerning this matter, please call me at 353-4516.



Rick McIntire
Planner II
Clackamas County Planning Dept.



First American

RESOLUTION NO. 06-3706
Attachment 4: COO Report

First American Title Insurance Company of Oregon
1500 NE Division
Gresham, OR 97030
Phn - (503) 667-1333
Fax - (503) 665-8374



FAX TRANSMITTAL

DATE: **08/16/2005 04:12:59 PM**

FILE NO.: **7012-633774**

TO: **Roger Miracle**
Attn:

FAX: **15036669054**

FROM: **Gaye Bell**

Special Instructions/Comments: **Measure 37 report & Deed**

Thank You For Your Business! We Know You Have A Choice.

IMPORTANT NOTICE:

Should any of these papers require an **ORIGINAL SIGNATURE** and your fax machine produces the facsimile on thermal paper, please **PHOTOCOPY** then sign the photocopy.

We will "not" accept an Original Signature on THERMAL fax paper.

Thank you for your cooperation in this matter.

**IF TRANSMISSION OF ALL PAGES IS NOT COMPLETE OR IF AN ORIGINAL IS NEEDED,
PLEASE CONTACT THE SENDER.**



First American

RESOLUTION NO. 06-3706
Attachment 4: COO Report

First American Title Insurance Company of Oregon
222 SW Columbia Street, Suite 400
Portland, OR 97201
Phn - (503) 222-3651
Fax - (503) 790-7858

MULTNOMAH COUNTY TITLE UNIT
FAX (503) 790-7858

Title Officer: **Carol Bruney**
(503) 222-3651

MEASURE 37 LOT BOOK SERVICE

Roger J. Miracle & Ann M. Miracle
806 SW Wilson Court
Gresham, OR 97080

Order No.: 7012-633774
August 16, 2005

Attn:
Phone No.: - Fax No.:
Email:

Re:

Fee: \$500.00

We have searched our Tract Indices as to the following described property:

Parcel 1, PARTITION PLAT NO. 1993-93, in the County of Clackamas and State of Oregon.

and as of August 1, 2005 at 8:00 a.m.

We find that the last deed of record runs to

Roger J. Miracle and Ann M. Miracle, as tenants by the entirety

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes for the fiscal year 2005-2006 a lien due, but not yet payable.
2. The assessment roll and the tax roll disclose that the premises herein described were specially assessed as Forest Land pursuant to O.R.S. 321.358 to 321.372. If the land becomes disqualified for the special assessment under the statute, an addition tax may be levied for the last five (5) or lesser number of years in which the land was subject to the special land assessment.
3. Maintenance of Private Roadway, including terms and provisions thereof.
Recorded: November 18, 1977 as Fee No. 77 47512
4. Declaration of Restrictions of Partition Plat # 1993-93, including terms and provisions thereof.
Recorded: August 15, 1994 as Fee No. 94-065522

First American Title

Lot Book Service

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Guarantee No.: **7012-633774**
Page 2 of 2

5. Road Maintenance Agreement, including terms and provisions thereof.
Recorded: August 15, 1995 as Fee No. 94-065524
6. Unrecorded leases or periodic tenancies, if any.

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount: \$790.83
Map No.: 13E27A 00201
Property ID: 00132092
Tax Code No.: 026-015

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens:

In our search for recorded deeds to determine the vestee herein we find the following:

Document	Recorded	Book	Page	Fee No.
Quitclaim Deed - Statutory Form	July 22, 1987			8733467

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listing do to include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection wit this Measure 37 Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Vedry

12

FORM NO. 960—QUITCLAIM DEED—STATUTORY FORM (Individual Grantor)

STEVEN HESS & SONS, INC., PORTLAND, OR 97204

QUITCLAIM DEED—STATUTORY FORM
INDIVIDUAL GRANTOR

MARSHA ANN ZINK

Grantor,
releases and quitclaims to **ROGER J. MIRACLE and ANN M. MIRACLE, husband and wife**

Grantee, all right, title and interest in and to the following described
real property situated in **Clackamas** County, Oregon, to-wit:

All of that portion described on Exhibit A attached hereto
of that certain easement for ingress, egress and utility purposes
over and across that certain 25 foot wide roadway as shown on the
duly recorded major partition of "Tunker Heights".

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The true consideration for this conveyance is \$ **NONE** (Here comply with the requirements of ORS 99.030)

Dated this **21** day of **July**, 19 **87**

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT. THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Marsha Ann Zink

STATE OF OREGON, County of **Multnomah**, ss. **July 21, 1987**
Personally appeared the above named **MARSHA ANN ZINK**
and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me: *Cheryl A. Clancy*
Notary Public for Oregon—My commission expires: **3/4/89**

(OFFICIAL SEAL)

QUITCLAIM DEED
MARSHA ANN ZINK
ROGER J. MIRACLE and ANN M. MIRACLE
GRANTEE

GRANTEE'S ADDRESS, ZIP
After recording return to:
Mr. and Mrs. Roger J. Miracle
c/o Mrs. Marsha Ann Zink
P. O. Box 3242
Gresham, OR 97030
NAME, ADDRESS, ZIP

Use if change is requested, all tax statements
shall be sent to the following address:
No change

NAME, ADDRESS, ZIP

STATE OF OREGON,
County of _____ ss.
I certify that the within instrument
was received for record on the
_____ day of _____, 19____,
at _____ o'clock _____ M., and recorded
in book/real/volume No. _____ on
page _____ or as fee/file/instrument/
microfilm/reception No. _____,
Record of Deeds of said county.
Witness my hand and seal of
County affixed.

NAME TITLE
By _____ Deputy

SPACE RESERVED
FOR
RECORDER'S USE

87 33467

RESOLUTION NO. 06-3706
Attachment 4: COO Report

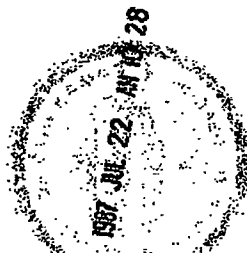
EXHIBIT A

A twenty-five foot wide roadway located in the East one-half of the Northeast one-quarter of Section 27, T 1 S, R 3 E, of the Willamette Meridian, County of Clackamas, State of Oregon, with its westerly boundary more particularly described as follows:

Commencing at the Northeast Corner of the said Section 27; thence South 89°09'50" West, a distance of 1,311.01 feet to the Northwest corner of the East one-half of the Northeast one-quarter of the said Section 27; thence South 00°13'02" West along the West line of the said East one-half, a distance of 1073.38 feet; thence South 89°46'58" East, a distance 150.00 feet; thence South 33°28'20" East, a distance of 113.00 feet; thence South 04°49'45" East, a distance of 424.25 feet; thence North 65°02'40" East, a distance of 69.19 feet; thence North 85°46'26" East, a distance of 65.22 feet; thence North 79°41'33" East, a distance of 50.08 feet; thence North 88°34'42" East, a distance of 35.05 feet; thence South 74°39'10" East, a distance of 46.89 feet; thence South 57°13'43" East, a distance of 35.04 feet; thence South 38°02'46" East, a distance of 98.77 feet; thence South 55°37'34" East, a distance of 121.39 feet to the true point of beginning of this description; thence South 05°51'20" West, a distance of 82.40 feet; thence 95.15 feet along the arc of a 114.97 foot radius circular curve to the right through a central angle of 47°25'05" (long chord is 92.46 feet and bears South 29°33'52" West); thence South 53°16'25" West, a distance of 72.83 feet to a point on a non-tangent curve to the left having a radius of 86.10 feet; thence along said curve, the long chord of which bears South 29°33'52" West, an arc distance of 74.46 feet; thence South 3°46'30" West a distance of 52.83 feet; thence along a 154.43 foot radius curve to the right, the long chord of which bears South 6°24'48" West, 54.63 feet, an arc distance of 54.92 feet; thence South 16°36'05" West a distance of 125.53 feet; thence along a 204.78 foot radius curve to the right, the long chord of which bears South 29°33'38" West 91.85 feet, an arc distance of 92.63 feet; thence South 42°31'10" West a distance of 232.95 feet; thence South 48°20'15" West a distance of 106.04 feet; thence along a 71.37 foot radius curve to the left, the long chord of which bears South 23°51'42" West 59.14 feet, an arc distance of 60.98 feet; thence South 89°23'10" West a distance of 220.39 feet to a point on the North boundary of a fifty foot wide road dedication as shown on the Yunker Heights, Major Partition recorded November 18, 1977 as Recorder's Fee No. 77-47511, Film Records.

2

REGION
of Clackamas
County Clerk
for the County of
Clackamas
to hereby certify that the instrument of
record is correct and true to the records of said



and see also
JOHN F. KAUFMAN
County Clerk
Office
(in)

87 33467

Comparative Market Analysis

RESOLUTION NO. 06-3706
Attachment 4: COO Report

for

Roger Miracle

SUBJECT PROPERTY

9390 SE Kingswood Way
Gresham, OR 97080

◆ 11.34 Acre Parcel
◆ One Building Site

Suggested Price: \$350,000

Prepared By:

Vicki Arnold
Americana Properties, Inc.

8/10/2005



Americana

This report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice and is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

Summary of Comparables

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5053945	0	RESID	9390 SE KINGSWOOD WAY	Sandy	144	11.34	\$350,000
		RESID	53501 SE Terra Fern		144	9.84	\$279,000

Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5020294	4	RESID	9390 SE KINGSWOOD WAY	Troutdale	144	11.34	\$350,000
		RESID	STARK ST		144	8.23	\$200,000

Sold

MLS#	P	Type	Address	City	Area	Acres	Price
4005284	0	RESID	9390 SE KINGSWOOD WAY	Portland Canby	144	11.34	\$350,000
4038153	3	RESID	7927 SE 190 DR		144	9	\$500,000
		RESID	Anderson		146	8.34	\$208,000

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Pricing Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Status	#	Average	Minimum	Maximum	Avg Sqft	Avg \$Sqft
Active	1	\$279,000	\$279,000	\$279,000	0	\$0
Pending	1	\$200,000	\$200,000	\$200,000	0	\$0
Sold	2	\$354,000	\$208,000	\$500,000	0	\$0
Total Listings	4	Sold Properties closed averaging 74.53% of their Final List Price. This reflects a 25.47% difference between Sale Price and List Price.				

	Amount	\$/Sqft
Average Sales Price	\$354,000	\$0
Min. List Price	\$224,950	\$0
Max. List Price	\$725,000	\$0
Suggested List Price	\$350,000	\$

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SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Comparative Market Analysis

RESOLUTION NO. 06-3706
Attachment 4: COO Report

for

Roger Miracle

SUBJECT PROPERTY

9390 SE Kingswood Way
Gresham, OR 97080

- ◆ 11.34 Acre Parcel
- ◆ Nine Building Sites
- ◆ Price Per One Acre Parcel

Suggested Price: \$300,000

Prepared By:



Vicki Arnold
Americana Properties, Inc.

8/10/2005

Americana
with the spirit of change

This report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice and is not intended as an appraisal. If an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

Comparables to Your Home

RESOLUTION NO. 06-3706
Attachment 4: COO Report

0 WALTERS LOOP

LND

ACT

\$299,500

No Photo
Available

ML#: 5025910
MLS Area: 144
County: Multnomah
Neighborhood: VIEW CREST HEIGHTS
Zip Code: 97080
T/Guide: 629B4
Tax Id #: R489343

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1134.73

Directions: POWELL; S ON WALTERS ROAD; TO WALTERS LOOP

Remarks: LARGE LOT IN GRESHAM'S PREMIER AREA - HOMES IN THE 600'S TO OVER A MILLION - COME ENJOY THE VIEWS! FIRE SPRINKLERS REQUIRED.

16th CT

LND

PEN

\$234,900



ML#: 5013508
MLS Area: 144
County: Multnomah
Neighborhood: DAWNCREST ESTATES
Zip Code: 97080
T/Guide: 629C4
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 0

Directions: REGNER TO ELLIOT, LEFT ON 15TH, RIGHT ON 16TH CT. TO END OF CUL-DE-SAC.

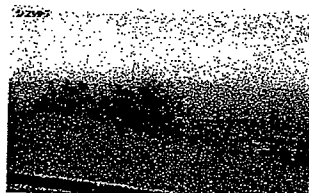
Remarks: BEAUTIFUL 1AC+ MT. HOOD & COLUMBIA RIVER GORGE VIEW LOT. LOCATED IN THE PRESTIGIOUS "DAWNCREST ESTATES" NEIGHBORHOOD. CLOSE TO PERSIMMONS GOLF & DWN. TOWN GRESHAM. NO HOME OWNERS FEES! 1031 EXCHANGE. BRING YOUR OWN BUILDER!

0 SW MILLER CT

LND

SLD

\$240,000



ML#: 5032952
MLS Area: 144
County: Multnomah
Neighborhood: Gresham Butte
Zip Code: 97080
T/Guide: 629B4
Tax Id #: R111795

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 925

Directions: POWELL, S/WALTERS RD, E/LOVHAR TO MILLER CT.

Remarks: VIEW! VIEW! VIEW! FABULOUS, SPECTACULAR & DRAMATIC VIEWS OF MT HOOD & CITY LIGHTS ON THIS 1+ AC LOT! BUILD YOUR DREAM HOME TO CAPTURE THE ENTIRE PANORAMA. NO HOMEOWNER'S ASSOC, NO CC&R'S! ALL UTILITIES AVAIL, UPSCALE AREA OF FINER HOMES, CLOSE TO EVERYTHING YET PRIVACY PLUS!

Le Ann CT

LND

SLD

\$250,000

No Photo
Available

ML#: 5030876
MLS Area: 144
County: Clackamas
Neighborhood:
Zip Code: 97009
T/Guide: 660F6
Tax Id #: 01595580

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 725.88

Directions: KELSO - EKLUND - LE ANN COURT

Remarks: LEVEL BUILDING LOT IN MT. SHADOW ESTATES, .98 ACRE, BACKS TO NURSERY, COMMUNITY WATER, GAS, POWER AND STANDARD SEPTIC AVAILABLE.

10693 SE RIDGEWAY DR**LND****SLD****\$325,000**

ML#: 4070992
MLS Area: 145
County: Clackamas
Neighborhood: ALTAMONT #6
Zip Code: 97266
T/Guide: 657H1
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1979.65

RESOLUTION NO. 06-3706
 Attachment 4: COO Report

Directions: IDELMAN TO TYLER, TYLER TO CITY VIEW, CORNER OF CITY VIEW & RIDGEWAY
Remarks: BREATHTAKING PANORAMIC VIEW! BEHOLD THE VIEW OF DOWNTOWN PORTLAND, MT. ST. HELENS & WILLAMETTE RIVER. BUILD YOUR DREAM HOME ON THIS LOT OF JUST OVER AN ACRE LOCATED ON A PRIVATE GATED CULDESAC WITH JUST 2 OTHER HOME SITES OF SIMILAR SIZE. CLOSE TO SHOPPING & AIRPORT.

10687 SE Ridgeway DR**LND****SLD****\$375,000**

**No Photo
Available**

ML#: 5047925
MLS Area: 145
County: Clackamas
Neighborhood: Altamont
Zip Code: 97266
T/Guide: 657H1
Tax Id #: Not Found

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 0

Directions: IDELMAN TO TYLER, TYLER TO CITY VIEW, CORNER OF CITY VIEW & RIDGEWAY DR
Remarks: GREAT VIEWS OF EVERYTHING

10915 SE VALLEY VIEW TER**LND****SLD****\$395,000**

**No Photo
Available**

ML#: 5014586
MLS Area: 145
County: Clackamas
Neighborhood: HIGHPOINTE
Zip Code: 97015
T/Guide: 657J2
Tax Id #: 01505151

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1621.05

Directions: SUNNEYSIDE
Remarks:

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Summary of Comparables

RESOLUTION NO. 06-3706
Attachment 4: COO Report

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5025910	0	RESID	9390 SE KINGSWOOD WAY 0 WALTERS LOOP	Gresham	144 144	11 0.97	\$300,000 \$299,500

Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5013508	7	RESID	9390 SE KINGSWOOD WAY 16th CT	Gresham	144 144	11 1.1	\$300,000 \$234,900

Sold

MLS#	P	Type	Address	City	Area	Acres	Price
5032952	1	RESID	9390 SE KINGSWOOD WAY 0 SW MILLER CT	Gresham	144	11	\$300,000
5030876	0	RESID	Le Ann CT	Boring	144	1.01	\$240,000
4070992	6	RESID	10693 SE RIDGEWAY DR	Portland	144	0.98	\$250,000
5047925	0	RESID	10687 SE Ridgeway DR	Portland	145	1.2	\$325,000
5014586	0	RESID	10915 SE VALLEY VIEW TER	Happy Valley	145	1	\$375,000
					145	1	\$395,000

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Pricing Your Home

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Status	#	Average	Minimum	Maximum	Avg Sqft	Avg \$Sqft
Active	1	\$299,500	\$299,500	\$299,500	0	\$0
Pending	1	\$234,900	\$234,900	\$234,900	0	\$0
Sold	5	\$317,000	\$240,000	\$395,000	0	\$0
Total Listings	7	Sold Properties closed averaging 97.6% of their Final List Price. This reflects a 2.4% difference between Sale Price and List Price.				

	Amount	\$/Sqft
Average Sales Price	\$317,000	\$0
Min. List Price	\$249,000	\$0
Max. List Price	\$395,000	\$0
Suggested List Price	\$300,000	\$

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Metro Statement as to negative effect of the Urban Growth Management Functional Plan

Under the Urban Growth Management Functional Plan portions of the subject property would be required to be set aside reducing the total acreage available for residences. The proposed restriction would result in a lower number of residences and any beneficial effect (if any) of the restrictions would not increase the value of the remaining lots sufficiently to compensate for the reduction in the number of the lots. Thus, the restrictions would result in a net decrease in the value of the property.

C:\Client Files\1215.7\Metro Statement.wpd