

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN) Resolution No. 06-3707
ORDER RELATING TO THE WARREN &)
VIRGINIA YOUNG CLAIM FOR) Introduced by Chief Operating Officer Michael
COMPENSATION UNDER ORS 197.352) Jordan with the concurrence of Council President
(MEASURE 37)) David Bragdon

WHEREAS, Warren and Virginia Young filed a claim for compensation under ORS 197.352 (Measure 37) and Chapter 2.21 of the Metro Code contending that Metro regulations had reduced the fair market value of property they own in the city of Damascus, Oregon; and

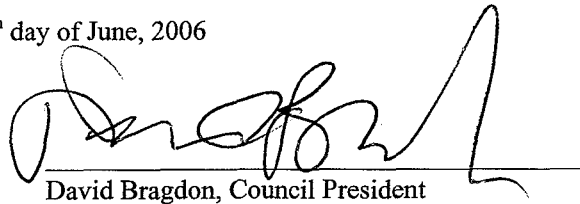
WHEREAS, the Chief Operating Officer reviewed the claim and submitted a report to the Metro Council, pursuant to section 2.21.040 of the Metro Code, recommending denial of the code for the reason that the Metro regulation that is the basis for the claim has not reduced the fair market value of the claimants'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

WHEREAS, the Metro Council held a public hearing on the claim on June 29, 2006, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

- 1. Enters Order 06-005, 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. 06-005, 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 29th day of June, 2006


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

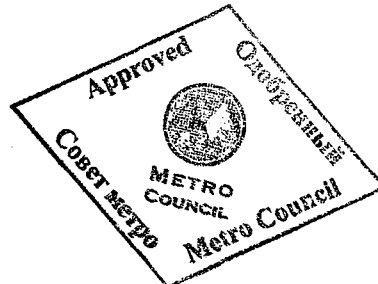


Exhibit A to Resolution No. 06-3707

Order No. 06-005

RELATING TO THE WARREN & VIRGINIA YOUNG CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimants: Warren and Virginia Young

Property: 24105 SE Tillstrom Road, Damascus, Oregon;
Township 1S, Range 3E, Section 34A (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 Metro Code Chapter 2.21. This order is based upon materials submitted by the claimant and the report 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 June 29, 2006.

IT IS ORDERED THAT:

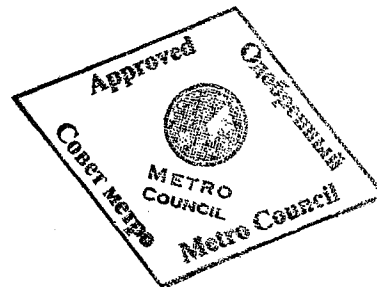
The claim of Warren and Virginia Young for compensation be denied because it does not qualify for compensation for reasons set forth in the report of the COO.

ENTERED this 29th day of June, 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**

**REPORT OF THE METRO CHIEF OPERATING OFFICER
June 2, 2006**

METRO CLAIM NUMBER: Claim No. 06-005

NAME OF CLAIMANT: WARREN AND VIRGINIA YOUNG

MAILING ADDRESS: Matthew Green-Hite
Primogenitor Corporation
17940 Oatfield Road
Gladstone, OR 97027

PROPERTY LOCATION: 24105 SE Tillstrom Road, Damascus,
Clackamas County, Oregon 97080

LEGAL DESCRIPTION: T1S R3E Section 34A Tax Lot 1200

DATE OF CLAIM: August 2, 2005

180-DAY PROCESSING DEADLINE: January 30, 2006

I. CLAIM

Claimants Warren and Virginia Young seek compensation in the amount of \$195,000 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 4.34-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. There are two existing single-family dwellings on the subject property constructed in 1977, the same year the property was purchased by the claimants.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on June 2, 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/measure37.

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 Employment and Corridor (allowing urban scale commercial and 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 August 2, 2005. The claim identifies Metro Code section 3.07.1110 C as the basis of the claim. The Metro Council adopted the regulation that gives rise to this claim on September 10th, 1998, by Ordinance 98-772B, and applied the regulation to claimants' property on December 5, 2002, by Ordinance No. 02-969B, 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 2.21.020(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 the 4.34-acre subject property on March 23, 1977, and have had a continuous ownership interest since that time. Attachment 1 is a site map of the subject property (ATTACHMENT 1). There are two existing single-family dwellings on the subject property constructed in 1977, the same year the property was purchased by the claimants.

Conclusions of Law

The claimants, Warren and Virginia Young, 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 December 14, 1967. The property was rezoned Rural Residential Farm Forest 5-Acre (RRFF-5) on December 17, 1979.

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. 05-41 on July 18, 2005, waiving certain land use regulations specified in Exhibit B (July 8, 2005 Staff Report for File Number ZC090-05), 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.

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 4.5-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.

4. Effect of Functional Plan Requirement 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 this report and in the attached memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel dated June 2, 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 \$195,000. From that data, claimants assert that the property's current fair market value (FMV), with the temporary 20-acre minimum size in place, is \$440,000. Based on the data, claimants assert that a one-acre parcel for a homesite has a current FMV of \$120,000. Claimants contend that county zoning at the time of purchase (1977) allowed creation of one-acre homesites. Claimants believe they could have received approval of two additional homesites. Hence, they multiply \$120,000 times the two homesites they could have created, yielding a value of \$240,000. From this value claimants subtract \$30,000 for infrastructure improvements. Claimants then add the value of the remainder of the property to yield a total value of \$635,000. Subtracting the asserted current market value of \$440,000 yields the claimed reduction in FMV of \$195,000.

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 partition at the time claimants made their first purchase in 1977. The Conder Memo proceeds with this method to demonstrate that, even assuming claimants could have received approval of a two additional homesites 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; (2) designated the property with the "Employment Area" 2040 Growth Concept design type designation with a "Corridor" overlay; 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.

The comparable sales that claimants provide, for reasons explained in the Conder Memo, do not accurately reflect the values with Metro's regulatory action. Data generated by Metro's Data Resource Center and analyzed in the Conder Memo provide an accurate assessment of values.

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 that a prudent investor would take into account. The table shows that the FMV using conservative assumptions under the Employment Area designation inside the UGB exceeds the FMV under RA-1 zoning outside the UGB.

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 price of \$39,500. 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.

Conclusions of Law

The facts and analyses indicate that Metro's action to bring claimants' land into the UGB, designate it Employment Area with a Corridor overlay (allowing high-density 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 3.07.1110C 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 3.07.1110C 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 the claim will allow the claimants 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 the provision of urban services less efficient and more complicated.

Conclusions of Law

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

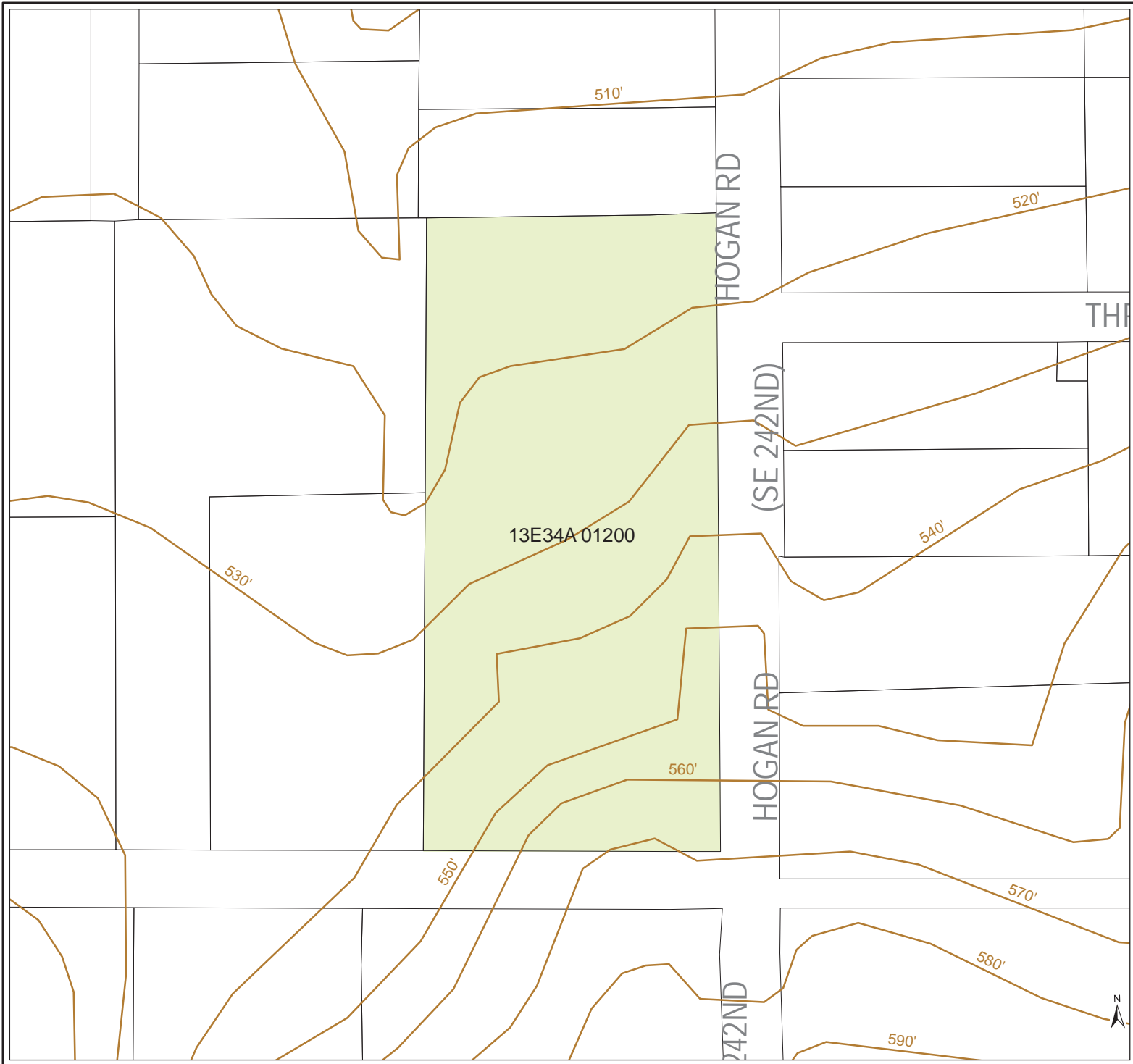
ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Warren and Virginia Young 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 June 2, 2006

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

Attachment 4: Warren and Virginia Young Measure 37 Claim Submittal to Metro



R L I S
 REGIONAL LAND INFORMATION SYSTEM

Resolution No. 06-3707
Attachment 1 COO Report

Site Map

Young

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 0.03 miles

0 25 50 100 150 Feet

Clark Co.
 Washington Co. Multnomah Co.
 Clackamas Co.

Location Map

METRO

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

Resolution No. 06-3707
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



June 2, 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 Warren & Virginia Young Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Young Measure 37 Claim. We conclude that the Metro action of including the property inside the UGB, designating it "Employment with a Corridor overlay" and imposing a temporary 20 acre minimum lot size for development did not have produce a material loss of value for the subject property¹. This conclusion depends on time to development in an alternative use. If developed, in the alternative "Employment with a Corridor overlay use within 15 years, the property experiences no material loss from Metro action and will more likely expect a gain in value. Likewise, should we use the Plantinga-Jaeger method of determining Measure 37 value loss, we find no loss has occurred.

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 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. 06-3707
Attachment 2: Report of the Chief Operating Officer

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.

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

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).

Resolution No. 06-3707
Attachment 2: Report of the Chief Operating Officer

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, 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.

William K. Jaeger, *The Effects of Land Use Regulations of 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. 06-3707
Attachment 2: Report of the Chief Operating Officer

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 “Employment Land with Corridor overlay” 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 “Employment with Corridor overlay” development configurations including a 15 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 Young 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 Young 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 “Employment with Corridor overlay” designation versus Clackamas County’s RA-1 designation.

Young Property Description:

Resolution No. 06-3707
Attachment 2: Report of the Chief Operating Officer

The subject property consists of 4.34 acres immediately north of Tillstrom Road on the corner of 242nd in the community of Damascus. Clackamas County Assessor data show it as a 4.34 acre parcel with two separate, legal residential structures. Assessor appraised value as of 2005 is \$492,621, with land value of \$157,881 and improvement value of \$334,740 for 3,038 square feet of residential structures. Data submitted with the claim indicate 4.36 acres comprising the property was purchased in 1977 and the structures were built at the same time. Though not explicit in the record we assume the purchase price of \$39,500 included the market value of the structures at that time.

Visual inspection from Tillstrom Road and 242nd and air photo inspection as well as relevant GIS data indicate that the property poses no substantial limitations to development. The location of the two residential structures restrict RA-1 development to two additional lots. In the case of use as “Employment with a Corridor overlay” these structures would be nonconforming uses and be demolished or moved when the land is converted to a more intense use.

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 “Employment with Corridor overlay” and the default use of RA-1.

Dwelling Unit Capacity Estimates:

For purposes of determining “Employment with Corridor overlay” capacity we note that this is one of Metro’s most flexible land uses. Also location at the intersection of two prospective urban arterials makes the site a prime location for commercial/retail and mixed use development. For this reason we presume that at some point in the future the site will be marketable at a level of town center/corridor intensity.

For the RA-1 designation we agree with the claimant that 2 residential lots are available at 1 acre per lot.

Current Value Estimate of “Employment with Corridor Overlay” 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 files

Table 1: Summary Property Value Data – Damascus Area Town Center Sales

Average Lot Size: 0.92 acres

Resolution No. 06-3707
Attachment 2: Report of the Chief Operating Officer

Average Lot Value: \$437,000
Number of Sales: 2

the above 2 sales from March 2005 to developers are the most comparable actual sales, though they differ from the subject property in several respects. First they are in a developing Town Center area so they have an immediate market; not a market in 15 or 20 years. Secondly, some urban infrastructure such as water and streets are available nearby. However, the Metro designation employment with corridor overlay allows as much development flexibility as town center so given 15 years time for infrastructure to be installed and demand to develop, the subject property should be able to command similar per acre prices.

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

We note that the assessor’s market land value for surrounding 1 acre parcels runs from 100,000 - 140,000. Depending on design, infrastructure investment and market preference a range of \$120,000 to \$140,000 for ready to build RA-1 lots is reasonable.

Alternative Valuation of Young 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

Resolution No. 06-3707
Attachment 2: Report of the Chief Operating Officer

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 4.34 acres of land amounted to \$39,500 per acre. Table 3 below converts that value per acre to current 2005 dollars using 4 different value change indices.

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

Sale 4.34 Acres 1977:

Index ³	77 Value	2005 Value	Ratio	Value Per Acre 2005 \$
Port/Van CPI	61.6	197.7	3.21	\$126,795
House Value Index	40.4	241.5	5.97	\$235,815
Lot Value Index	13.5	120.0	8.89	\$351,155
S&P500 Stock Idx	95.1	1181.4	12.42	\$490,590

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 Young Property value should vary between \$127,000 and \$491,000.

Evaluation of Young Claim of Comparable Properties

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. 06-3707
Attachment 2: Report of the Chief Operating Officer

The basis for the Young property value loss claim rests on a market value estimate of \$120,000 per developed, ready to build lot assuming 2 buildable lots are available on the property. The resultant \$240,000 less \$30,000 for infrastructure improvements is added to the assessor's 2005 improvement value plus land value adjusted for a 2 acre lot to determine value with RA-1 zoning. This total value amounts to \$635,000. Current value is taken as the assessor's estimate of \$440,000. The difference yields a loss of \$195,000.

We consider \$120,000 to be an appropriate estimate for 1 acre residential lot in a rural configuration in that location. However, the loss of \$195,000 is based on not being able to do anything with the property, whereas the 20 acre minimum lot restriction is temporary. Upon adoption of a comprehensive plan, provision of urban infrastructure and development of sufficient market demand, the property may be developed as an employment area with a corridor overlay. Consequently, alternative valuation is an issuing of timing. As noted earlier we have chosen 15 years as the time to development in an alternative more intensive use.

Young Claim Property Values Compared

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

1. Assume the entire property of 4.34 acres is purchased
2. Assume a cost of providing water, sanitary sewer, drainage, streets and other on site utilities plus SDC's of \$30,000 per buildable lot with RA-1. This is higher than the claimant has assumed but more in line with recent trends in on site development requirements and SDC's. Assume a value per developed lot for RA-1 of \$140,000; near the top of the range for the area. Also increase the assessor's market value for the property 15% to account for fairly systematic underassessment relative to market sales in 2005. This yields the total value of the property today of the land in RA-1 use.
3. To calculate the value of the property in employment-corridor use, we take the average of the Damascus Town Center actual sales per acre as the value per acre of the 4.34 acres when it is ripe for development in 15 years. This property value is then discounted at 6.5% per year. To account for the value of the existing improvements on the property, we value them on an annual net rental proceeds basis discounted 6.5% per year until time of land conversion (15 years) at which time the improvements are demolished. The summed and discounted residential rents we add to the discounted land value.
4. Account for the value of time until the property could actually be developed. In the case of Employment with Corridor overlay we assume 15 years before development. Thus we discounted the market values at 6.5% per year for 15

Resolution No. 06-3707
Attachment 2: Report of the Chief Operating Officer

years. For RA-1 we assume development within 2 years; so we discounted the value at 6.5% per year for 2 years.

5. Compare the resultant values for the property with RA-1 usage to the value of the property with Employment with Corridor overlay usage.

Resolution No. 06-3707
Attachment 2: Report of the Chief Operating Officer

Table 4 below depicts the results for low and high range assumptions for both Employment with Corridor overlay and RA-1.

Table 4: Comparison of Estimated Market Value of Raw Land for Employment with Corridor Overlay and RA-1 Land Uses

Employment - Corridor 15 Years to Development:

Value per Acre:	\$437,000
Total Raw Land Value (4.34x437,000):	\$1,897,000
Current Market Value for 4.34 acres	
Discounted 15 years:	\$737,000
Plus rental value of structures	
For 15 years discounted:	\$135,500
Total Value - Development 15 years:	\$872,500

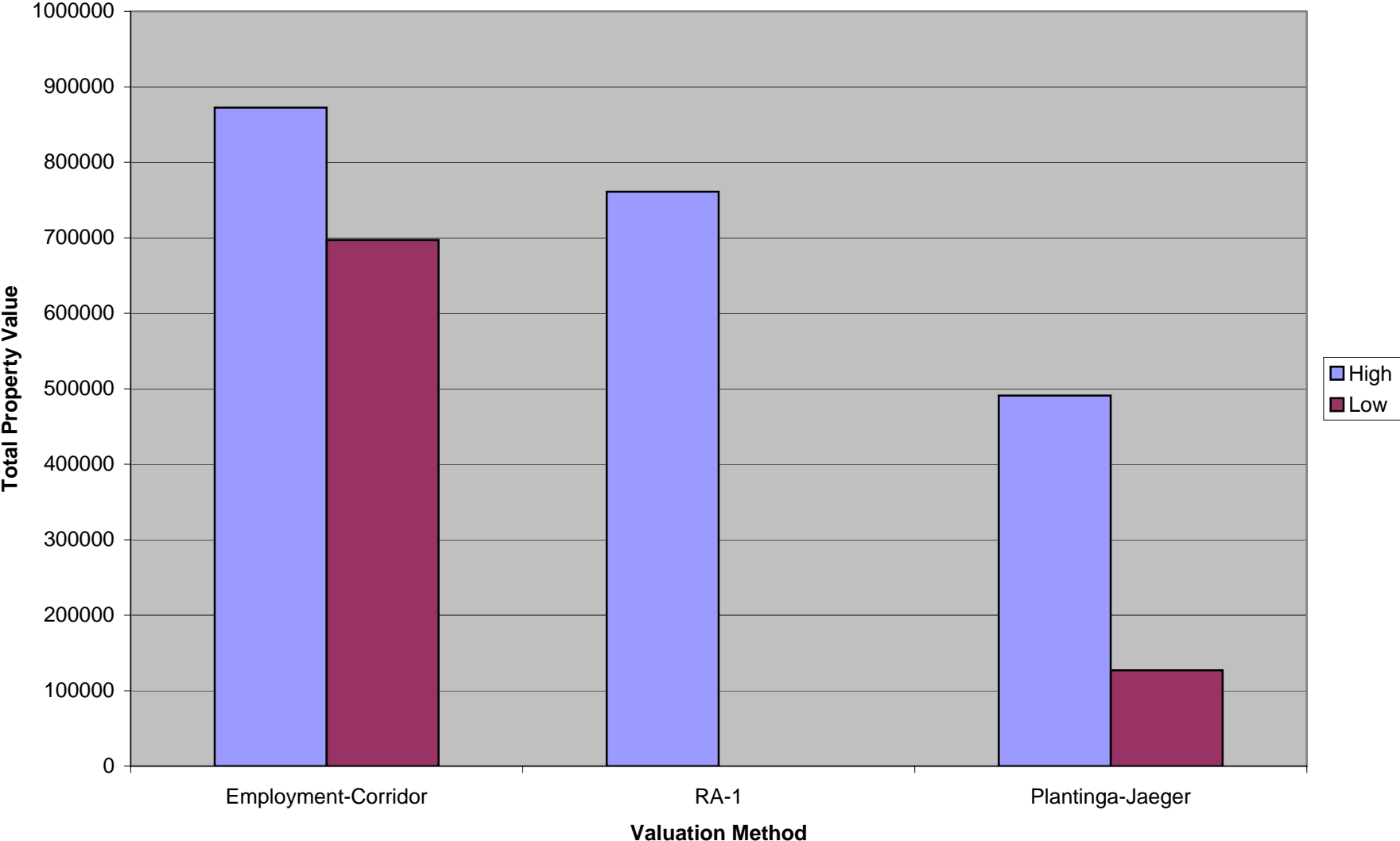
RA-1

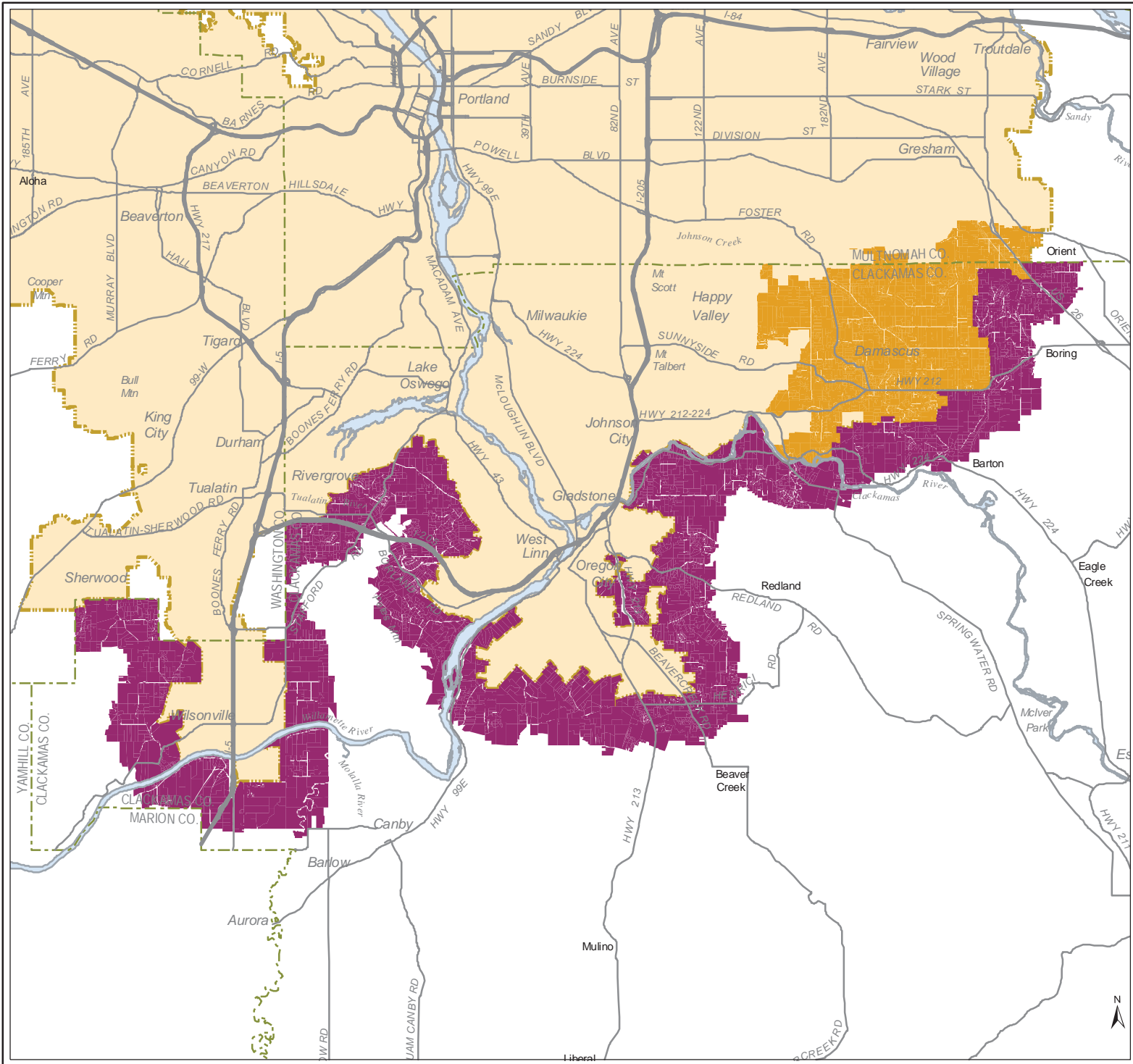
Yield:	2 DU
Lot Value:	\$140,000
Development Cost per Lot:	\$30,000
Net Raw Land per Lot:	\$110,000
Total Raw Land Value (2x110,000):	\$220,000
Plus assessor's value of remaining	
Property plus 15%;	\$567,000
Total Value of property:	\$787,000
Additional Lots Discounted 2 years:	\$761,000

Figure A attached depicts the calculations in Table 4. We estimate the current value of the Young property with Employment - Corridor designation to be \$873,000. The same property used as RA-1 in a rural setting would yield \$761,000. If developed with Metro's designation in 15 years the property has gained value rather than lost it. We note that our RA-1 valuation is \$126,000 higher than the claimant's valuation.

Moreover, in terms of establishing economic loss the property values established using the Plantinga-Jaeger method range from \$127,000 to \$491,000. The highest Plantinga - Jaeger estimate is below the "comparative sales" estimate of RA-1.

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





R L I S

REGIONAL LAND INFORMATION SYSTEM

Resolution No. 06-3707
Attachment 3 COO Report

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

- Damascus UGB Expansion Area
- One Mile Buffer
- County Line
- Inside Metro UGB

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 3.31 miles

0 1 2 Miles

Location Map

METRO

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



METRO

September 19, 2005

Matthew Green-Hite
Primogenitor Corporation
17940 Oatfield Road
Gladstone, OR 97027

Subject: Warren and Virginia Young Measure 37 Claim

Dear Mr. Green-Hite:

Thank you for your email letter of September 12 about Metro's process for responding to claims under Measure 37. The Metro Council currently has Ordinance No. 05-1087A, which adopts a claims process, under consideration. The Council heard the ordinance last night and made several minor revisions. The Council will consider the ordinance once again at its regular meeting on Thursday, September 22, at which time it will likely adopt the process. I have enclosed a copy of the draft claims process.

Metro received the claim of Warren and Virginia Young on August 4. Once the Council adopts the ordinance, I will begin to review it as prescribed in section 2.21.040 of the draft process. You could speed Metro's consideration of the Youngs' claim by submitting any materials specified in section 2.21.030 that the Youngs have not already submitted. I will do my best to handle the claim as quickly as possible.

Most of the claims filed to date with Metro involve lands, which Metro does not regulate (outside the regional urban growth boundary). Metro has informed these persons that they have no valid claim against Metro. We have received four claims, including the Youngs' that lie within the boundary and are regulated by Metro.

I hope this answers your questions.

Sincerely,

Michael J. Jordan
Chief Operating Officer

cc: Dan Cooper
Dick Benner
Lydia Neill

RECEIVED

SEP 21 2005

OFFICE OF METRO ATTORNEY

From: "Matthew Green-Hite" <greenhite@hotmail.com>
To: <jordanm@metro.dst.or.us>
Date: 9/12/2005 3:53:30 PM
Subject: Measure 37

Michael Jordan
Chief Operating Officer (COO)
METRO

Dear Mr. Jordan:

Metro Council Resolution #04-3520 (December 16, 2004) is the last entry I can find regarding Measure 37. In this resolution (1 (e)) the COO is directed to " .. Develop a proposed process ... to address claims under Ballot Measure 37".

On or about July 15, 2005 I discussed the process with Mr. Dan Cooper of the legal department in an effort to submit a claim for a client (YOUNG / 24105 SE Tillstrom Rd, Damascus OR). This claim was submitted August 3, 2005 , although no formal claim process appeared to be in place yet.

Please let me know:

- 1) What is the current formal process in place at this time.
- 2) If there is no formal process, what progress has been made by METRO since December 2004.
- 3) What is the status of the YOUNG claim? Is it being reviewed? Who is reviewing it? For what? Under what authority?
- 4) What Measure 37 claims have been processed and reviewed so far?

It does not seem reasonable that the Young's should have to wait six months and go to court for a waiver that has already been processed by Clackamas County and approved by the Damascus City Council. It also does not seem fair to the citizens living in the METRO region to have waited 9 months if a waiver process is not in place - or at least in process.

Matthew Green-Hite
Primogenitor Corporation

CC: <cooperd@metro.dst.or.us>

REGIONAL SERVICES



METRO

Daniel B. Cooper
Tele: (503) 797-1528
FAX: (503) 797-1792

February 9, 2006

Warren and Virginia Young
c/o Matthew L. Green-Hite
Tom Leibner, Agent
PRIMOGENITOR CORPORATION
17940 Oatfield Road
Gladstone, Oregon 97027

Re: Your Measure 37 Compensation Claim with Metro
Property Address: 24105 SE Tillstrom Road
Damascus, Clackamas County, Oregon 97080
Legal Descriptions: Tax Lot 1200, Township 1S, Range 3E, Section 34A

Dear Mr. and Mrs. Young:

In light of the recent judicial actions regarding Measure 37 and *MacPherson, et al. v. Department of Administrative Services, et al.*, I want to give you an updated response as to the current status of your claim pending at Metro, in addition to Matthew Green-Hite's letter of August 2, 2005, and our September 19, 2005 response by Michael Jordan, Chief Operating Officer of Metro.

Your property is located inside the Metro jurisdictional boundary, inside the Metro urban growth boundary and inside the City of Damascus in Clackamas County. At the time Metro included the land inside the urban growth boundary and subjected it to the temporary minimum lot size, it also designated the land as "employment land." Metro believes that your claim should wait a decision by the Oregon Supreme Court. If and when the Oregon Supreme Court upholds the validity of the Measure 37 claim, Metro will be prepared to respond to your claim within 60 days of the date of the Court's decision.

In order to assist Metro in processing your claim in the event the Court does reinstate Measure 37, I believe the Metro Council would be seeking additional information regarding the effect on your property's value of the action taken by Metro to bring the property inside the Metro urban growth boundary at the same time it impose the temporary 20-acre minimum lot size pending actual adoption of comprehensive plan designations for the property. As you maybe aware, property in this category similarly situated to yours is being sold for substantial value to persons who are willing to wait until after the 20-acre minimum lot size no longer applies upon the adoption of urban comprehensive plan designations and zoning. We would expect you to be able to show that the land is worth more if sold for rural density development than if sold for future employment uses at urban densities.

Very truly yours,

Daniel B. Cooper
Metro Attorney

DBC/sm

Warren and Virginia Young
c/o Matthew L. Green-Hite
Tom Leibner, Agent
PRIMOGENITOR CORPORATION
February 9, 2006
Page 2

RESOLUTION NO. 06-3707
Attachment 4: COO Report

cc: David Bragdon, Metro Council President
Michael J. Jordan, Chief Operating Officer
Andy Cotugno, Metro Planning Director

Warren and Virginia Young
c/o Matthew L. Green-Hite
Tom Leibner, Agent
PRIMOGENITOR CORPORATION
February 9, 2006
Page 3

RESOLUTION NO. 06-3707
Attachment 4: COO Report

bcc: Dick Benner
Lydia Neill, Metro's Measure 37 Task Force

~~RESOLUTION NO. 06-3707~~
~~Article B, Section 2.00 Report~~
~~Docket-OMA~~
~~Lydia Neill~~
17940 Oatfield Rd Gladstone, OR 97027

Primogenitor Corporation

August 2, 2005

Michael Jordan / COO
METRO
400 NE Grand Avenue
Portland, OR

RE: Measure 37 Claim
24105 SE Tillstrom Road
Damascus, OR

Dear Mr. Jordan:

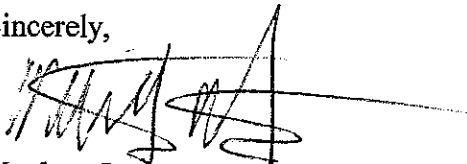
Enclosed is the Measure 37 claim for our clients Warren & Virginia Young.

Per my discussions with Dan Cooper of your legal department, there is no formal process (including forms) in place currently with METRO. I have enclosed our application on the State of Oregon claim form.

A waiver in lieu of compensation was approved June 28, 2005 by the City of Damascus. I have attached it in Appendix 'D'. No application with the State of Oregon is required.

Please feel free to call if you or your staff have any questions; we are hoping to move forward as soon as possible.

Sincerely,



Matthew L. Green-Hite
enclosure

(971) 230-0177

RECEIVED

AUG - 4 2005

OFFICE OF METRO ATTORNEY



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: Warren & Virginia Young		Day Time Phone #: (503) 658-4444	
Address: 24105 SE Tillstrom Road			
City: Damascus	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: Tom Leibner / Primogenitor Corporation		Day Time Phone #: (971) 230-0177	
Address: 17940 Oatfield Rd			
City: Gladstone	State: OR	Zip: 97027	
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: NA		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:			

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> 24105 SE Tillstrom Road		Damascus		City:
County:	Clackamas	State: OR	Zip: 97080	
Tax Lot #:	1200	County Tax Assessor's Map Reference # & Date:		
Township:	1S			
Range:	3E	Section: 34A		
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)	Warranty Deed
Date of Acquisition of Property:	March 23, 1977
Nature & Scope of Ownership of Property: <i>Attachment if Applicable</i> <input type="checkbox"/>	Owner
All Encroachments, Easements, etc. (see OAR 125-145-0040 (8) for further information) <i>Attachment if Applicable</i> <input type="checkbox"/>	NA

Section 6 INTENDED USE OF PROPERTY

What is the intended use of the property that is currently prohibited by state regulations? 3 single family home lots (Residential)

Section 9 AMOUNT OF PROPERTY VALUE REDUCTION

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 rationale for the reduction in Fair Market Value.

Fair Market Value Reduction Amount \$: 195,000	Law or Rule RRFF5	Basis of Evaluation: County Zoning changed from RA-1 / 1 acre lots (allows 1 lot)
Fair Market Value Reduction Amount \$: 195,000	Law or Rule RRFF5	Basis of Evaluation: County Zoning changed from RA-1 / 1 acre lots (allows 1 lot)
Fair Market Value Reduction Amount \$: 195,000	Law or Rule UGB / METRO	Basis of Evaluation: METRO / 20 acre minimum UGB
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: Warren Young	Signature: <i>Warren A. Young</i>
Interest in Property: Owner	
Printed Name: Virginia Youn	Signature: <i>Virginia M. Young</i>
Interest in Property: Owner	
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 type="checkbox"/> No <input type="checkbox"/>	Deed: Yes <input type="checkbox"/> No <input type="checkbox"/>	Appraisal(s) Yes <input type="checkbox"/> No <input type="checkbox"/>	Covenants, Conditions & Restrictions: Yes <input type="checkbox"/> No <input type="checkbox"/>
Affidavits: Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax Map(s) Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax Deferrals: Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax Reductions: Yes <input type="checkbox"/> No <input type="checkbox"/>
Participating Federal Programs: Yes <input type="checkbox"/> No <input type="checkbox"/>		<input type="checkbox"/> Other Information:(Explain)	
<input type="checkbox"/> Other Information:(Explain)		<input type="checkbox"/> Other Information:(Explain)	

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 type="checkbox"/> Date: 4/15/05	To Whom: City of Damascus
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 and 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.)

Warren A. Young 07/13/2005
Signature Date

Virginia M. Young 07/13/2005
Signature Date

T. Leiber 07/13/2005
Signature Date

Signature Date

Signature Date

Signature Date

State of Oregon

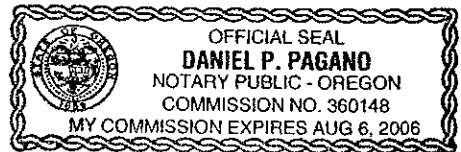
County of Multnomah

Signed and sworn to before me on July 13, 2005 by Warren A. Young
(month - day - year) Virginia M. Young
T. Leiber

[Signature]
(Notary Public - State of Oregon)

Notary Seal

My commission expires: 8-6-2006



Primogenitor Corporation

MEASURE 37 AUTHORIZATION

I authorize Primogenitor Corporation to submit my Measure 37 claim on my behalf to the State of Oregon, County of Clackamas, or other jurisdictions deemed necessary to process my claim.

Warren A. Young
Claimant

07/13/2005
Date

Virginia M. Young
Claimant

07/13/2005
Date

Claimant

Date

Claimant

Date

Township 1 S R 3E Section 34A Lot(s) 1200

Township S R Section Lot(s)

SUBJECT PROPERTY

~~Appendix A~~

24105 SE Tillstrom Rd
Gresham OR 97080

RESOLUTION NO. 06-3707
Attachment 4: COO Report



Property Information

Owner(s)	Young Warren Arnold / Virginia /	Parcel #	00143712
Property	24105 SE Tillstrom Rd Gresham, OR 97080	Map Coord	659-D4; 1S-3E-34-NE
Mailing Addr	24105 SE Tillstrom Rd Gresham, OR 97080	Census Tract	0232.01
		County	Clackamas
		Owner Phone	
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER A TAX LOT 01200		

Characteristics

Use	Agricultural (nec)	Year Built	1977	Sq. Feet	2120
Zoning		Lot Size	4.34	# of units	
Bedrooms	3	Bathrooms	3	Fireplace	1
#Rooms		Quality		Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	Garage
Flood	D				

Attributes COMPOSITION SHINGLE ; CONCRETE
Other

Property Sale Information

Sale Date		\$/Sq. Ft.		2nd Mtg.	
Sale Price		1st Loan		Prior Sale Amt.	
Doc No.	11247	Loan Type		Prior Sale Dt.	
Doc Type		Xfer Date		Prior Doc No.	
Seller		Lender		Prior Doc Type	

Tax Information

Imp Value	\$283,480.00	Exemption	
Land Value	\$151,924.00	Tax Year/Area	2004/026015
Total Value	\$435,404.00	Tax Value	\$435,404.00
Tax Amount	\$3,727.62	Improved	65%

Information compiled from various sources and is deemed reliable but not guaranteed.

APPENDIX “A”

OWNERSHIP

WARRANTY DEED—STATUTORY FORM
INDIVIDUAL GRANTOR

LYLE F. LOSINGER AND LUCY D. LOSINGER
conveys and warrants to WARREN ARNOLD YOUNG AND VIRGINIA MAY YOUNG, husband and wife
free of encumbrances except as specifically set forth herein situated in Clackamas County, Oregon, to-wit:

The east one-half of the east one-half of the south one-half of the southeast one-quarter of the northeast one-quarter of Section 34, T. 1 S., R. 3 E., of the W.M., in the County of Clackamas and State of Oregon;

1 3E 34R 1200

44-03

The said property is free from encumbrances except the rights of the public in and to that portion lying within Market Road No. 30, and S.E. 242nd Ave.

The true consideration for this conveyance is \$39,500.00. (Here comply with the requirements of ORS 93.030)

Dated this 23 day of March, 1977

Lyle F. Losinger

Lucy D. Losinger

STATE OF OREGON, County of Multnomah, ss. March 23, 1977

Personally appeared the above named Lyle F. Losinger and Lucy D. Losinger

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

Before me: Margaret J. Mitchell
Notary Public for Oregon—My commission expires: 1-28-80

(OFFICIAL SEAL)

WARRANTY DEED

GRANTOR
GRANTEE
GRANTEE'S ADDRESS (if different from above)
After recording return to:
Mr. & Mrs. Warren Young
3672 S.E. Tenino
Portland, OR 97202
Should a change in address be requested, all tax statements shall be sent to the following address:
Mr. & Mrs. Warren Young
11361 S.E. 242nd
Gresham, OR 97030

STATE OF OREGON
County of Clackamas
I, George D. Pessen, County Clerk, Esquire, Recorder of Conveyances and Esquire of the Circuit Court of the State of Oregon, of the County of Clackamas, do hereby certify that the within instrument of conveyance is duly and lawfully recorded in the records of said county at

77 MAR 28 3:20



George D. Pessen
County Clerk
Recorder of Conveyances

77 11247

77 11247

APPENDIX "B"

FAIR MARKET VALUE

Appendix 'B'

Reduction of Fair Market Value (FMV)

Subject property is at the intersection of SE Tillstrom and SE 242nd Avenue; just recently annexed into the City of Damascus. There are currently two residences on the single 4.34 acre lot; 24105 SE Tillstrom Rd and 11361 SE 242nd Avenue. The requested partition would place each of the houses on its own lot; and create a third buildable lot.

There are few (if any) buildable lots in the immediate area; and no comparable sales of buildable lots in the immediate area. The nearest 3 sales in the last twelve months sold for 250% to 600% of tax assessed value, but were nearer the Damascus core area.

To more accurately represent the value of potential lots, we have used tax assessed values of lots / land immediately adjoining the subject property; in the 1 to 2 acre range.

DEVELOPED VALUE

House / Improvements	\$285,000	
Lot / land Lot #1 (2 acre)	\$140,000	
Subtotal	<u> </u>	\$425,000
Lot #2 (1 acre)		\$120,000
Lot #3 (1 acre)		\$120,000
Subtotal		<u> </u>
Development costs		(\$30,000)
TOTAL		<u> </u>

CURRENT VALUE

(per County Assessor)

Houses / Improvements	(\$283,480 per assessor)	\$285,000
Lot / Land	(\$151,924 per assessor)	\$155,000
TOTAL	(\$435,404 per assessor)	<u> </u>

**** REDUCTION IN FAIR MARKET VALUE **** **\$195,000**

Appendix 'B'

Tax assessed values and adjustments for adjoining buildable lots (1 and 2 acre)

One (1) acre lots		Two (2) acre lots			
<u>ADDRESS</u>	<u>LOT SIZE</u>	<u>ASSESSED</u>	<u>COMP #</u>		
11161 SE 11109 SE 11200 SE	242nd 242nd 240th	Avenue Avenue Place	0.91 1.01 1.04	\$111,309 \$120,874 \$123,744	#1 #2 #3
	Average		0.987	\$118,642	
	Adjusted (1 acre)		1	\$120,000	
24065 SE 11234 SE	Tillstrom 240th	Avenue Place	1.85 2.92	\$136,569 \$147,041	#4 #5
	Average		2.385	\$141,905	
	Adjusted (2 acre)		2	\$140,000	

APPENDIX "B"

COMPARABLE LOTS

Camp

Appendix #10
RESOLUTION NO. 06-3707
Attachment 4: COO Report

11161 SE 242nd Ave
Gresham OR 97080



Property Information

Owner(s)	Spack Kurt J / Spack Dawn T	Parcel #	00143730
Property	11161 SE 242nd Ave Gresham, OR 97080	Map Coord	659-D4; 1S-3E-34-NE
Mailing Addr	11161 SE 242nd Ave Gresham, OR 97080	Census Tract	0232.01
		County	Clackamas
		Owner Phone	503-658-8294
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER A TAX LOT 01301		

Characteristics

Use	Sfr	Year Built	1971	Sq. Feet	1161
Zoning		Lot Size	.91	# of units	
Bedrooms	3	Bathrooms	1	Fireplace	
#Rooms		Quality		Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	Garage
Flood	D				

Attributes COMPOSITION SHINGLE ; CONCRETE
Other

Property Sale Information

Sale Date		\$/Sq. Ft.		2nd Mtg.	
Sale Price		1st Loan		Prior Sale Amt.	
Doc No.	9276	Loan Type		Prior Sale Dt.	
Doc Type		Xfer Date		Prior Doc No.	
Seller		Lender		Prior Doc Type	

Tax Information

Imp Value	\$72,850.00	Exemption	
Land Value	\$111,309.00	Tax Year/Area	2004/026015
Total Value	\$184,159.00	Tax Value	\$184,159.00
Tax Amount	\$1,507.04	Improved	40%

Information compiled from various sources and is deemed reliable but not guaranteed.

COMP

RESOLUTION NO. 06-3707
Attachment 4: COO Report

#29

11109 SE 242nd Ave
Gresham OR 97080



Property Information

Owner(s)	Stearns Van R / Stearns Bonnie S	Parcel #	00143749
Property	11109 SE 242nd Ave Gresham, OR 97080	Map Coord	659-D4; 1S-3E-34-NE
Mailing Addr	11109 SE 242nd Ave Gresham, OR 97080	Census Tract	0232.01
		County	Clackamas
		Owner Phone	
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER A TAX LOT 01400		

Characteristics

Use	Sfr	Year Built	1950	Sq. Feet	1942
Zoning		Lot Size	1.01	# of units	
Bedrooms	4	Bathrooms	1	Fireplace	1
#Rooms		Quality		Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	
Flood	D				

Attributes COMPOSITION SHINGLE ; CONCRETE

Other

Property Sale Information

Sale Date		\$/Sq. Ft.		2nd Mtg.	
Sale Price		1st Loan		Prior Sale Amt.	
Doc No.	25064	Loan Type		Prior Sale Dt.	
Doc Type		Xfer Date		Prior Doc No.	
Seller		Lender		Prior Doc Type	

Tax Information

Imp Value	\$71,000.00	Exemption	
Land Value	\$120,874.00	Tax Year/Area	2004/026015
Total Value	\$191,874.00	Tax Value	\$191,874.00
Tax Amount	\$1,654.33	Improved	37%

Information compiled from various sources and is deemed reliable but not guaranteed.

11200 SE 240th PI
Gresham OR 97080



Property Information

Owner(s)	Hamilton Howard L / Hamilton Theresa C	Parcel #	00143534
Property	11200 SE 240th PI	Map Coord	; 1S-3E-34-NE
	Gresham, OR 97080	Census Tract	0232.01
Mailing Addr	11200 SE 240th PI	County	Clackamas
	Gresham , OR 97080	Owner Phone	
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER A TAX LOT 00416		

Characteristics

Use	Sfr	Year Built	1967	Sq. Feet	2050
Zoning		Lot Size	1.04	# of units	
Bedrooms	4	Bathrooms	2	Fireplace	1
#Rooms		Quality		Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	Garage
Flood	D				

Attributes COMPOSITION SHINGLE ; CONCRETE
Other

Property Sale Information

Sale Date		\$/Sq. Ft.		2nd Mtg.	
Sale Price		1st Loan		Prior Sale Amt.	
Doc No.	16287	Loan Type		Prior Sale Dt.	
Doc Type		Xfer Date		Prior Doc No.	
Seller		Lender		Prior Doc Type	

Tax Information

Imp Value	\$120,120.00	Exemption	
Land Value	\$123,744.00	Tax Year/Area	2004/026015
Total Value	\$243,864.00	Tax Value	\$243,864.00
Tax Amount	\$2,193.71	Improved	49%

Information compiled from various sources and is deemed reliable but not guaranteed.

Comp

#4C

24065 SE Tillstrom Rd
Gresham OR 97080



Property Information

Owner(s)	Premo Wayne P / Premo Anne M	Parcel #	00143696
Property	24065 SE Tillstrom Rd Gresham, OR 97080	Map Coord	659-D4; 1S-3E-34-NE
Mailing Addr	24065 SE Tillstrom Rd Gresham, OR 97080	Census Tract	0232.01
		County	Clackamas
		Owner Phone	
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER A TAX LOT 01100		

Characteristics

Use	Sfr	Year Built	1942	Sq. Feet	1636
Zoning		Lot Size	1.85	# of units	
Bedrooms	3	Bathrooms	2	Fireplace	1
#Rooms		Quality		Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	
Flood	D				

Attributes	COMPOSITION SHINGLE ; PIER		
Other			
Property Sale Information			
Sale Date	10/00/1986	\$/Sq. Ft.	\$41.53
Sale Price	\$67,950.00	1st Loan	
Doc No.	43177	Loan Type	
Doc Type	Warranty Deed	Xfer Date	
Seller		Lender	
		2nd Mtg.	
		Prior Sale Amt.	
		Prior Sale Dt.	
		Prior Doc No.	
		Prior Doc Type	

Tax Information

Imp Value	\$58,940.00	Exemption	
Land Value	\$136,569.00	Tax Year/Area	2004/026015
Total Value	\$195,509.00	Tax Value	\$195,509.00
Tax Amount	\$1,596.90	Improved	30%

Information compiled from various sources and is deemed reliable but not guaranteed.

COMP

52

11234 SE 240th Pl
Gresham OR 97080



Property Information

Owner(s)	Pattiani Raymond M / Pattiani Colleen C	Parcel #	00143703
Property	11234 SE 240th Pl Gresham, OR 97080	Map Coord	; 1S-3E-34-NE
Mailing Addr	11234 SE 240th Pl Gresham, OR 97080	Census Tract	0232.01
		County	Clackamas
		Owner Phone	503-658-5135
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER A TAX LOT 01101		

Characteristics

Use	Sfr	Year Built	1980	Sq. Feet	1886
Zoning		Lot Size	2.92	# of units	
Bedrooms	3	Bathrooms	2	Fireplace	
#Rooms		Quality		Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	
Flood	D				

Attributes COMPOSITION SHINGLE ; CONCRETE
Other

Property Sale Information

Sale Date		\$/Sq. Ft.		2nd Mtg.	
Sale Price		1st Loan		Prior Sale Amt.	
Doc No.	43869	Loan Type		Prior Sale Dt.	
Doc Type		Xfer Date		Prior Doc No.	
Seller		Lender		Prior Doc Type	

Tax Information

Imp Value	\$124,040.00	Exemption	
Land Value	\$147,041.00	Tax Year/Area	2004/026015
Total Value	\$271,081.00	Tax Value	\$271,081.00
Tax Amount	\$2,736.35	Improved	46%

Information compiled from various sources and is deemed reliable but not guaranteed.

APPENDIX "C"
MAPS

dmj

A

MAPQUEST

Send To Printer Back to Map

24105 Se Tillstrom Rd
Gresham OR
97080-4732 US

Notes:

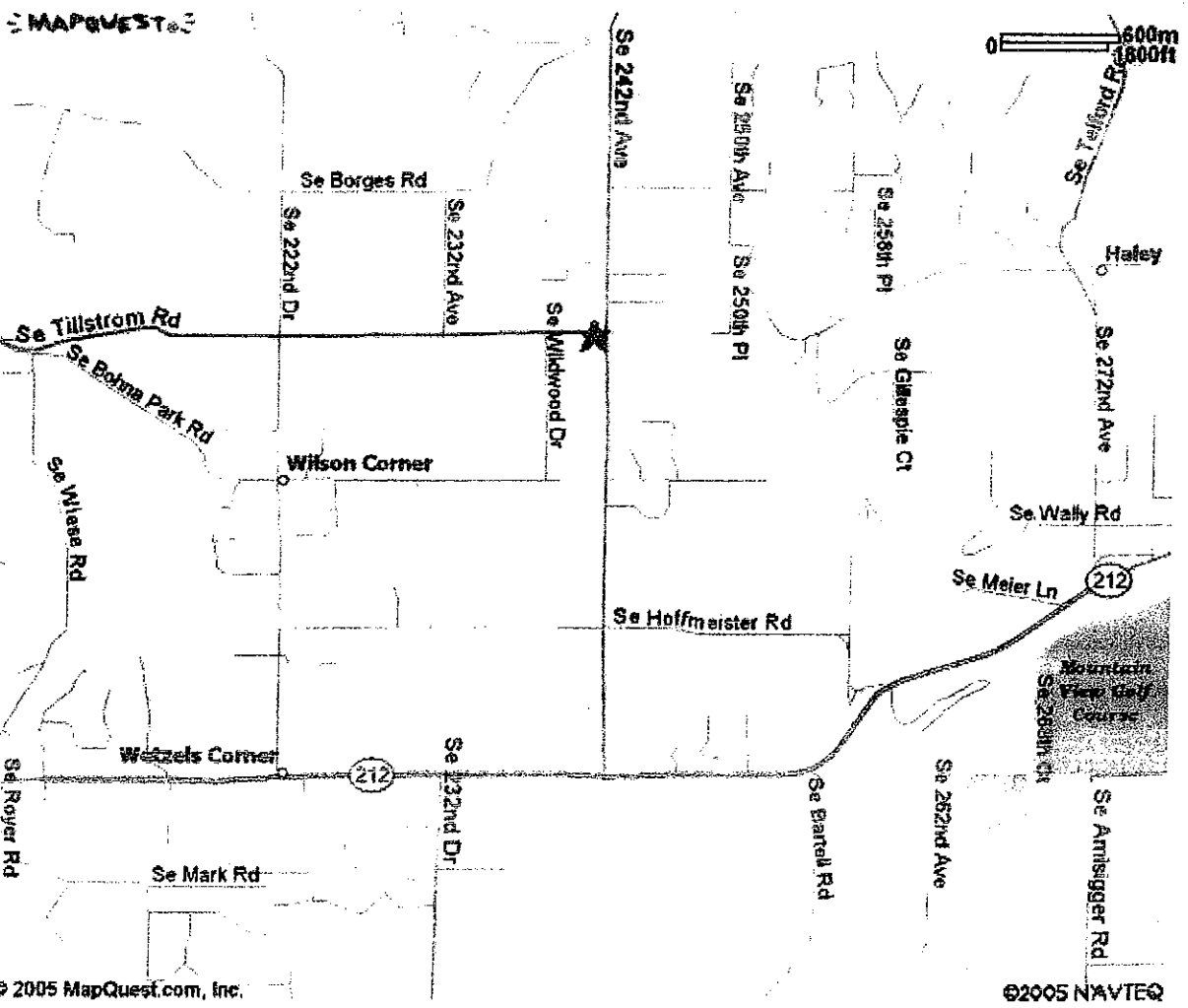
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Wherever life takes you
in Oregon,
Best Western is there.

Best Western

Get a GREAT ROOM with our BESTRATES

SEE RATES & LOCATIONS



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RRFF-5

661.83 N 89° 46' 27" E
626.44

PARCEL 2 4.79 Ac.
PARTITION

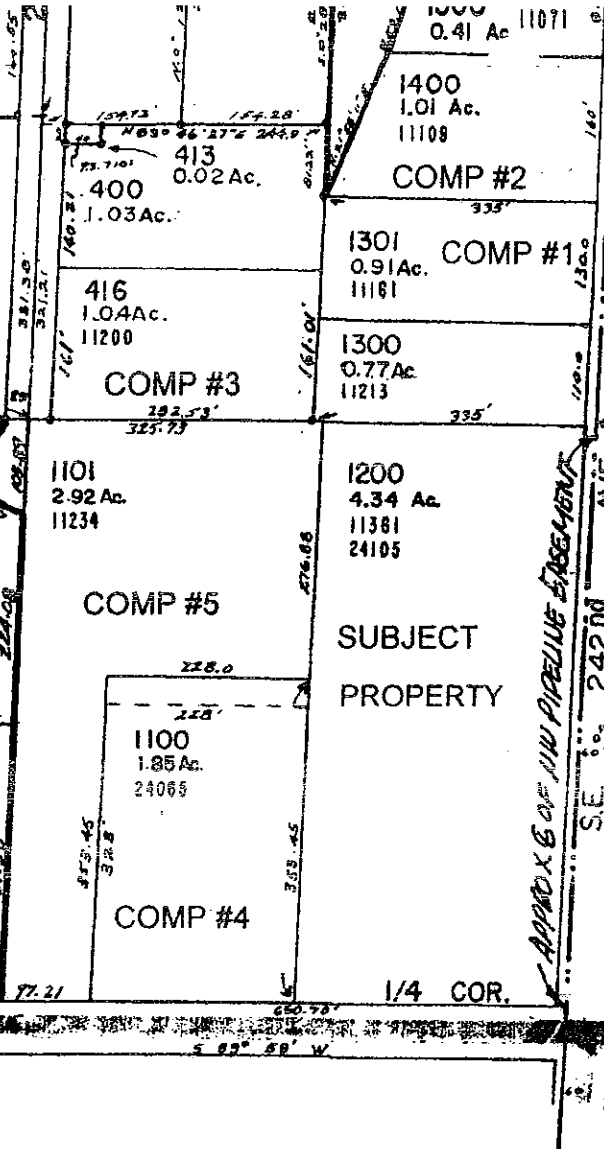
PLAT
9° 56' 07" E 650.92

1992-58

PARCEL 1 4.45 Ac.

07° E 633.46

34D



11071
0.41 Ac.
1400
1.01 Ac.
11109
COMP #2
333'
1301
0.91 Ac.
11161
COMP #1
1300
0.77 Ac.
11213
335'
1101
2.92 Ac.
11234
COMP #5
1100
1.85 Ac.
24065
COMP #4
1/4 COR.
APPROX 6' OF 11 1/2\"/>

SEE

11500

1 3E 34A
BOOK 5

APPENDIX "D"

CITY OF DAMASCUS -
STAFF REPORT M37

**PLANNING STAFF REPORT
TO CITY OF DAMASCUS CITY COUNCIL
MEASURE 37 CLAIM**

File Number: ZC090-05
Report Author: Greg Fritts, Senior Planner
Hearing Date: July 18, 2005
Report Date: July 8, 2005

Claimant(s): Warren and Virginia Young

Date Filed: April 15, 2005

180-Day Processing Deadline: October 12, 2005

Legal Description: T1S-R3E-SECTION 34A-TAX LOT 1200

Location: 24105 SE Tillstrom Road; Damascus area

Proposal/ Relief Requested: The claimants ask to divide the subject property into lots and develop a single-family dwelling on each lot, or in the alternative, receive compensation for the reduction in land value from the application and enforcement of the RRFF-5 zoning district.

Ownership History/Date Acquired by Claimant(s): The claimants acquired the property on March 23, 1977. The claimants have had an ownership interest, pursuant to Measure 37, since March 23, 1977, and are the current owners of the property.

Zoning History: The first zoning of the property was RA-1, applied on December 14, 1967. The property was rezoned to RRFF-5 on December 17, 1979.

Reduction in Land Value: The claimants have identified the amount of lost property value resulting from the RRFF-5 zoning regulations as \$195,000 based on an analysis of comparable small acreage parcels with residences in the area. This amount assumes the difference between the ability to create 4 lots versus the current value of the property with 4.5 acres and two single family residences. Staff notes that a partition has been approved, but not finalized [see Planning Division File Z0220-03-M] to allow the property to be divided to create separate lot for each existing residence. This information is sufficient to find the current zoning, which prohibits further land divisions for new building sites, reduces the value of the property, when compared to the opportunity to

divide the property under the RA-1 zoning in effect when the property was acquired by the current owners.

Discussion: The subject property is approximately 4.5 acres and is developed with two legally established, single-family dwellings. When the claimants acquired the property in 1977, it was zoned RA-1 and could have been divided into lots as small as one acre, subject to approval of a partition or subdivision, on-site sewage disposal, and a domestic water source.

The five-acre minimum lot size of the current RRFF-5 zone generally precludes division of the property. [See Zoning and Development Ordinance (ZDO) Subsection 309.08.B]. Because the subject property is located within the Portland Metro Area Urban Growth Boundary, a twenty acre minimum lot size applies, in addition to the five acre minimum [see ZDO 309.07.D]. An exception to these regulations exists for two or more pre-existing dwellings on one lot [See ZDO 902.01B.3]. As mentioned, there is a previously-approved partition creating two lots, each with one of the existing dwellings.

Under the RA-1 zoning, as many as four lots could have been created. Under the existing RRFF-5 zoning, only two lots, each with one of the existing dwellings, could be created. Therefore, application and enforcement of the current RRFF-5 zoning has resulted in a reduction in land value when compared to the prior RA-1 status. These facts demonstrate a valid Measure 37 claim.

It should be noted that Metro also will have to review and approve a claim for this property. The Metro Urban Growth Management Functional Plan has restrictions on the division of property within the urban growth boundary, prior to application of urban zoning. These standards are the basis for the City's 20-acre lot size restriction, set forth in ZDO 309.07.D.

Remedy: The Damascus 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, or compensate the claimants. The City has allocated no funds to provide compensation.

Recommendation: Based on the facts discussed above, staff recommends the City Council, for the property identified in the claim, not apply or modify the following regulations to allow the property to be divided into new lots for residences:

- Not apply to the subject property Subsection 309.08.B of the ZDO (five-acre minimum lot size).
- Not apply to the subject property Subsection 309.07D of the ZDO (twenty-acre minimum within the urban growth boundary).
- Modify Subsection 309.07.A (establishing prohibited uses) to read, “Structures and uses of land not specifically mentioned in Section 309, *except land divisions allowed by the zoning at the time of acquisition*, are prohibited in all RRFF-5 districts.” (Italics represent modification to the existing regulation.)
- Division of the property will be subject to the RA-1 zoning in effect when the claimants acquired the property on March 23, 1977.
- Require that development shall be subject to all other current ZDO provisions.

Additional Comments:

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

CITY OF DAMASCUS

RESOLUTION NO. 06-3707
Attachment 4: COO Report

19750 SE Damascus Lane
Damascus Oregon, 97009
(503) 658-8545
cityofdamsacus@verizon.net

***REVISED**

MEASURE 37 CLAIM
NOTICE OF PUBLIC HEARING

DAMASCUS CITY COUNCIL

Notice Date: June 28, 2005

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

Subject: A claim has been filed pursuant to Ballot Measure 37 (2004)

Hearing Date: July 18, 2005

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

*Hearing Location: **ASSEMBLY OF GOD CHURCH, 19070 SE SUNNYSIDE ROAD, DAMASCUS 97009**

File Number: ZC090-05

Claimant: Warren and Virginia Young

Property Location: 24105 SE Tillstrom Road; Northwest corner of the intersection of SE Tillstrom Road and SE 242nd Avenue; Damascus

Legal Description: T1S, R3E, Section 34A, Tax Lot(s) 1200, W.M.

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

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

CITY OF DAMASCUS
RESOLUTION NO. 05-41

RESOLUTION OF THE DAMASCUS CITY COUNCIL IN THE MATTER OF THE
MEASURE 37 CLAIM OF WARREN YOUNG AND VIRGINIA YOUNG

A. WHEREAS, Pursuant to Ballot Measure 37, Warren Young and Virginia Young ("Claimants") filed Claim #ZC090-05 (attached as Exhibit A) on April 15, 2005, regarding property in the Damascus area of Clackamas county (the "Property") described as:

TIS-R3E-SECTION 34A-TAX LOT 1200

B. WHEREAS, Pursuant to City procedures to implement Measure 37, the claim was investigated by staff and a report dated July 8, 2005 was submitted regarding the claim. The Staff Report is attached hereto as Exhibit B.

C. WHEREAS, Pursuant to City procedures, a hearing was held on the Exhibit A claim on July 18, 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 Warren Young and Virginia Young on March 23, 1977 .

2. That subsequent to Claimants' acquisition of the Property, land use regulations have been imposed on the Property which, pursuant to Ballot Measure 37, may 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 waive such regulations in lieu of compensation.

4. That compensation shall not be paid on the claim, but in lieu thereof, the City shall waive the application of those zone and lot size regulations, causing devaluation of the property, imposed on the Property by the City after the date of acquisition of the claimants described in paragraph 1.

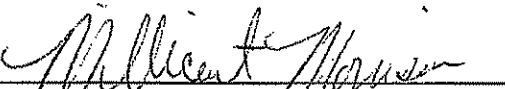
5. That this Resolution and Order does not waive or otherwise affect lot size or other regulations applicable to the Property adopted by Metro or the Oregon Land Conservation and Development Commission (LCDC) or other agency of the State of Oregon or other regulations excluded from Ballot Measure 37 by section 3 thereof.

6. That the Exhibit B Staff Report is adopted by reference in support of this Resolution and Order.

APPROVED AND ADOPTED on July 18, 2005.


Dee Wescott, Mayor

ATTEST:


Millicent Morrison, City Clerk