

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN
ORDER RELATING TO THE FRANKLIN R.
& MARLENE A. HANKS CLAIM FOR
COMPENSATION UNDER ORS 197.352
(MEASURE 37)

Resolution No. 06-3710

Introduced by Chief Operating Officer Michael
Jordan with the concurrence of Council President
David Bragdon

WHEREAS, Franklin R. and Marlene A. Hanks 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 Clackamas, Oregon, area; 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
claimant's property; and

WHEREAS, the Metro Council held a public hearing on the claim on July 6, 2006, and
considered information presented at the hearing; now, therefore

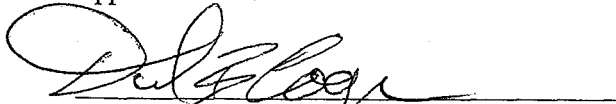
BE IT RESOLVED that the Metro Council

1. Enters Order 06-006, 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. 06-006, 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 6th day of July, 2006


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

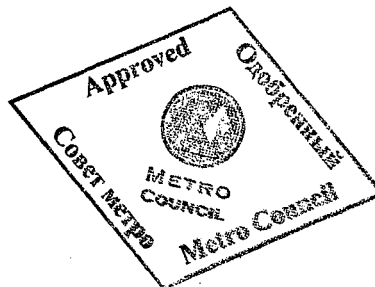


Exhibit A to Resolution No. 06-3710

Order No. 06-006

RELATING TO THE FRANKLIN R. & MARLENE A. HANKS CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimant: Franklin R. and Marlene A. Hanks

Property: 16000 SE Keller Road, Clackamas, Oregon;
Township 2s, Range 3E, Section 8, Tax Lot 101 and Section 8B, Tax Lot 1101 (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.

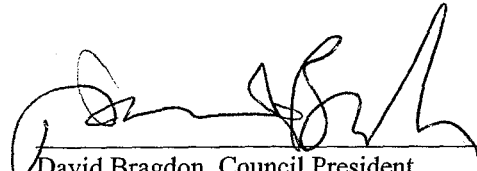
Claimants submitted the claim to Metro pursuant to Metro Code Chapter 2.21. This order is based upon materials submitted by the claimant and the report prepared by the Chief Operating Officer ("COO") prepared pursuant to section 2.21.040.

The Metro Council considered the claim at a public hearing on July 6, 2006.

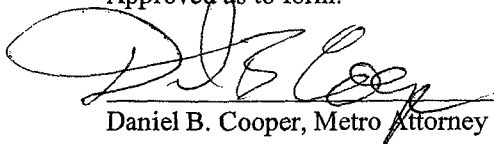
IT IS ORDERED THAT:

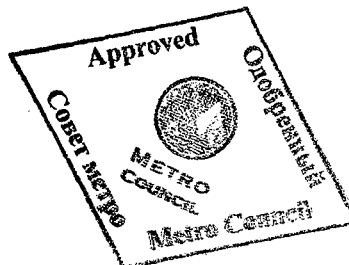
The claim of Franklin R. and Marlene A. Hanks for compensation be denied because it does not qualify for compensation for reasons set forth in the report of the COO.

ENTERED this 6th day of July, 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 9, 2006**

METRO CLAIM NUMBER: Claim No. 06-006

NAME OF CLAIMANT: FRANKLIN AND MARLENE HANKS

MAILING ADDRESS: Andrew H. Stamp
Attorney at Law
Kruse-Mercantile Professional Offices
Suite 9
4248 Galewood Street
Lake Oswego, OR 97035

PROPERTY LOCATION: 16000 SE Keller Road, Clackamas, Oregon
97015
Two parcels: 7.57 acres and 19.99 acres
("20-acre parcel")

LEGAL DESCRIPTION: T2S R3E Section 8, Tax Lot 101
T2S R3E Section 8B, Tax Lot 1101

DATE OF CLAIM: July 8, 2005

180-DAY PROCESSING DEADLINE: January 4, 2006

I. CLAIM

Claimants Franklin and Marlene Hanks seek compensation in the amount of \$2,160,000 to \$2,868,000 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 and Clackamas County to divide the 27.56-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 is one existing single-family dwelling located on the larger of the two parcels subject of the claim. The residential structure was constructed in 2001.

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 9, 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 Area with a Corridor Overlay and Industrial Area (allowing urban scale commercial, residential and industrial uses), 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 July 8, 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. Metro Council applied the regulation to a portion of the claimants' property (Tax Lot 1101—7.57 acres) on December 5, 2002, by Ordinance No. 02-969B, prior to the effective date of Measure 37 (December 2, 2004). Metro Council applied the regulation to a portion of the claimants' property (Tax Lot 101—19.99 acres) on June 24th, 2004, by Ordinance No. 04-1040B, 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 an ownership interest in the 27.56-acre subject property through a purchase contract executed on September 30, 1968. The claimants' State of Oregon Measure 37 Claim Form indicates March 15, 1971 as the date of acquisition of the subject property, and the claimants' have had a continuous ownership interest since that time. Attachment 1 is a site map of the subject property (ATTACHMENT 1). There is one existing single-family dwelling on the subject property constructed in 2001.

Conclusions of Law

The claimants, Franklin and Marlene Hanks, 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. The property was rezoned Rural Area Single Family Residential District (RA-2) on December 23, 1987.

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 Tax Lot 1101 (7.57 acres) in the UGB expansion area. This portion of the claimants' property was designated Employment Area with a Corridor Overlay under Ordinance No. 02-969B.

In 2004, Metro Council expanded the UGB by adopting Ordinance No. 04-1040B, including Tax Lot 101 (19.99 acres) in the UGB expansion area. This portion of the claimants' property was designated Industrial Area under Ordinance No. 04-1040B.

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.

Both Ordinances No. 02-969B and No. 04-1040B require local governments such as the City of Damascus and Clackamas County to apply the interim protection measures to the subject property as set forth in Metro Code Title 11, Urban Growth Management Functional Plan, Section 3.07.1110.

Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimants 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 27.56-acre property. The claimants 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 1971.

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 this report and in the attached memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel dated June 9, 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 \$2,160,000 - \$2,868,000. From that data, claimants assert that the property's current fair market value (FMV), with the temporary 20-acre minimum size in place, ranges from \$80,000 to \$110,000. Based on the data, claimants assert that a one-acre parcel for a homesite has a current FMV of \$180,000 - \$245,000. County zoning at the time of purchase (1971) allowed creation of one-acre homesites. Claimants believe they could have received approval of 26 homesites. Hence, they multiply \$180,000 - \$245,000 times the 26 homesites they could have created, yielding a range of values \$4,680,000 - \$6,370,000. The claimants make adjustments for the existing development on the site and costs of infrastructure. This calculation yields the range of claimed reduction in FMV of \$2,160,000 - \$2,868,000.

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 "with" and "without" scenarios. Under the "without" scenario, the property 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. This method, therefore, assumes claimants could have obtained approval for a subdivision at the time they acquired the land in 1971.

Under the "with" scenario (current regulatory setting), the land lies within the UGB; it is designated part Industrial Area and part Employment Area with a Corridor overlay; 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. This method, therefore, assumes claimants will be able to use a portion of the property for industrial use and a portion for uses allowed within Employment Areas when planning is adopted by the city.

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 table shows that the FMV of the property under RA-1 zoning exceeds the highest FMV of the land in its existing regulatory setting. The analysis using this methodology indicates that the current regulatory setting has reduced the FMV of the Hanks' property.

B. The Plantinga/Jaeger Method

This method assumes that claimants' purchase price in 1971 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 value of claimants' property.

The Conder Memo applies this method using the claimants' purchase price, \$1,063 per acre (\$50,000 purchase price divided by 47 original acres of land comprising the 1971 land purchase). 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 claimants' property under today's regulations exceeds the indexed value.

Conclusions of Law

The facts and analysis indicate that Metro's action to bring claimants' land into the UGB, designate it Employment Area with a Corridor overlay and Industrial Area (allowing urban-scale commercial, residential and industrial 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 would allow the claimants apply to the City of Damascus and to Clackamas County 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 would 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. 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 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.

Recommendation of the Chief Operating Officer:

The Metro Council should deny the Hanks' claim for the reasons that (1) the Council's Ordinances No. 02-969B and No. 04-1040B did not reduce the value of the Hanks' property and (2) development of one-acre lots will undermine the vision of the Damascus community and the City of Damascus' planning efforts, particularly when considered in the context of pending and future Measure 37 claims in the area.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Franklin and Marlene Hanks Property

Attachment 2: Metro Memorandum to Paul Ketcham and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Franklin and Marlene Hanks Measure 37 Claim," dated June 9, 2006


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

Attachment 4: Franklin and Marlene Hanks Measure 37 Claim Submittal to Metro

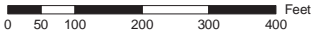
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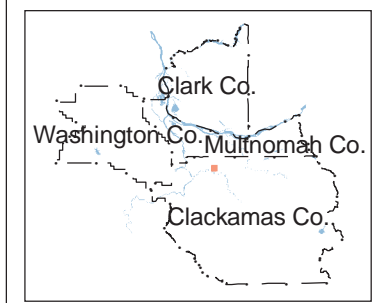
Resolution No. 06-3710
Attachment 1 COO Report

Site Map Hanks 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.

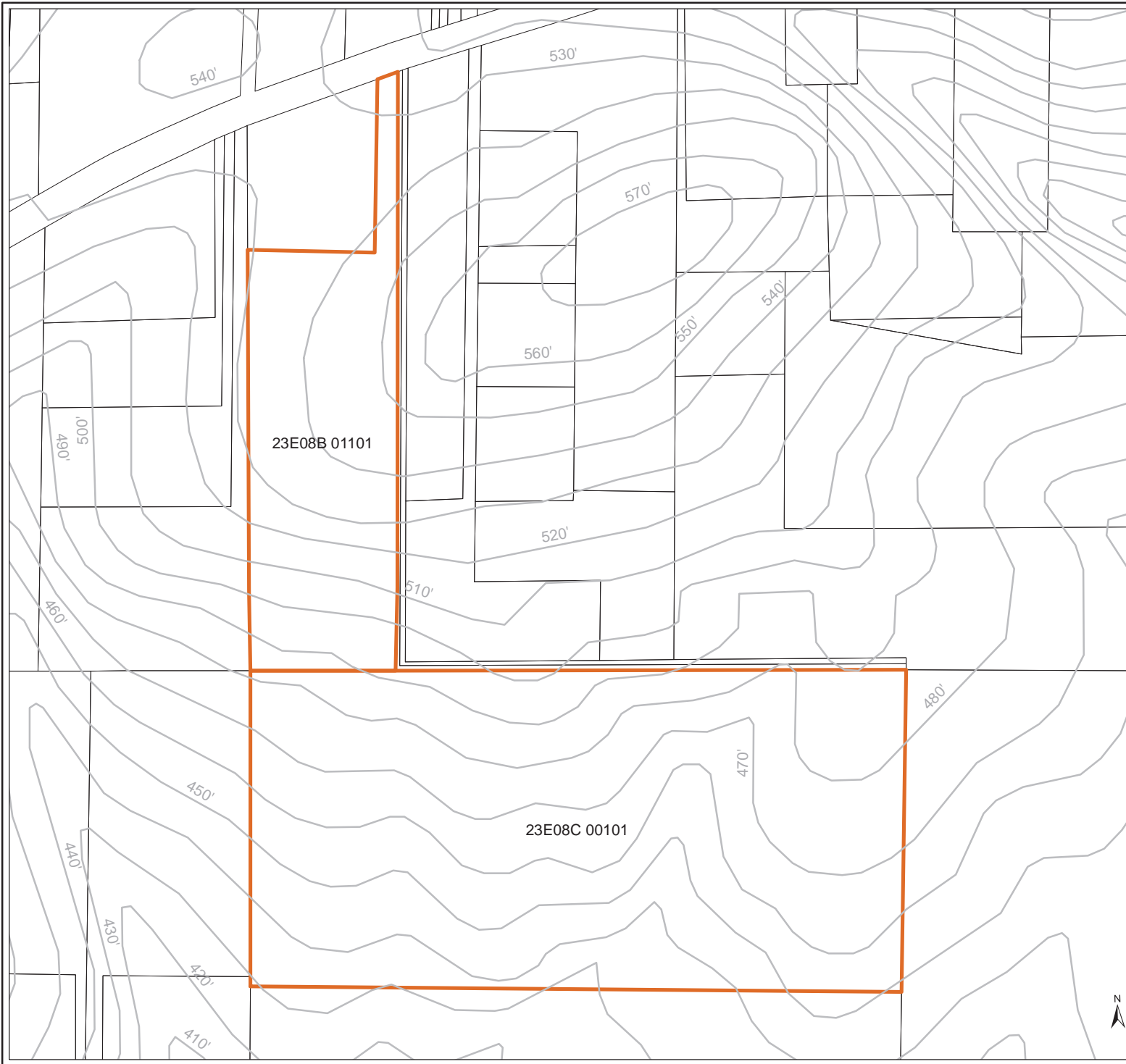
1 inch equals 0.05 miles




Location Map



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. 06-3710
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 9, 2006

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

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

Subject: Valuation Report on the Hanks Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Hanks Measure 37 Claim. Two separate Metro designations are applicable to the Hanks Claim. The Metro designation "Employment with Corridor Overlay" applies to the northerly 7.57 acre parcel and the Metro designation "Industrial" applies to the 19.99 acre parcel. We conclude that the Metro action of including the 7.57 acre property inside the UGB, designating it "Employment with a Corridor overlay" and imposing a temporary 20 acre minimum lot size for development did not produce a material loss of value for the subject property¹. We conclude that the Metro action of including the 19.99 acre parcel inside the UGB, and designating it "Industrial" reduced its value relative to the alternative rural RA-1 designation. When we combine the two parcels, we find an overall reduction in value resulting from the Metro designations. This is entirely attributable to the Industrial designation.

Using the Plantinga-Jaeger method of determining property value loss due to regulation indicates no loss of value for the combined two parcels has resulted from the Metro designation. The Plantinga - Jaeger range per acre is \$22,600 - \$44,400 and the Metro range is \$56,900 to \$81,600.

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.

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.

Metro Ordinances No. 02-969B and No. 04-1040B applied a set of new regulations to the claimant's property. First the ordinances brought claimant's property into the region's urban growth boundary, making the property eligible for urban high-density development on one parcel and industrial densities on the other parcel rather than rural low-density development. Second, Ordinance No. 02-969B designated one parcel "Employment with Corridor overlay", a high density mixed use permissible designation in Metro's 2040 Growth Concept. Ordinance No. 04-1040B designated the other parcel "Industrial", allowing industrial use and some associated non-industrial uses on the property. Third, the ordinances 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 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 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

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 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.

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 development capacity under both "Employment Land with Corridor overlay", "Industrial", and RA-1 designations assuming health and safety regulations are enforced.
- Based on recent sales (2004, 2005, 2006) of lots and existing properties inside the Damascus expansion area and the eastern portion of the Clackamas industrial district determine the current (2006) value of the property with a reasonable range of "Employment with Corridor overlay" and "Industrial" 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 Hanks 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 Hanks 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" and "Industrial" designation versus Clackamas County's RA-1 designation.

Hanks Property Description:

The subject property consists of two parcels of 7.57 and 19.99 acres south of Highway 212 about 1 mile west of the Damascus town center and 2.5 miles east of the eastern edge of the Clackamas industrial district. The northern parcel has access from Highway 212 at roughly 189th. The southern 19.99 acre parcel has access to Highway 212 via a driveway to Keller Road and then Tong Road. Assessor appraised value as of 2005 for the 7.57 acre parcel is \$135,351 with no improvement value. The 19.99 acre parcel has an assessor appraised value of \$663,697 with \$249,867 being in land and \$413,830 improvement value for residential structures. Data submitted with the claim indicate 47 acres comprising the property was purchased in 1971 and the present structure was built in 2001. Though not explicit in the record we assume the purchase price of \$50,000 included land only at that time.

Visual inspection from Keller Road and the property driveway and air photo inspection as well as relevant GIS data indicate that the property poses no substantial limitations to development for residential purposes. It is sloping from south to north; gaining about 150 - 170 feet. The slope renders manufacturing and warehouse uses quite problematic. The location of the residential structure restricts RA-1 development to 19 additional lots on the 19.99 acre parcel. The 7.57 acre parcel we assume would yield 7 RA-1 lots. In the case of use as "Industrial" on the 19.99 acre parcel the residential structure would be a nonconforming use and would need to 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", "Industrial" and the default use of RA-1.

Land Use Capacity Estimates - 7.57 Acre Parcel:

For purposes of determining "Employment with Corridor overlay" capacity we note that this is one of Metro's most flexible land uses. However, the location of the parcel is remote from Highway 212 and poorly situated to have any commercial or retail advantage from the Damascus Town Center or surrounding residential development. Moreover, the surrounding area is already committed to substantial amounts of residential development. For these reasons we presume that at some point in the future the site will be marketable at its most intense use as "Inner Neighborhood" with a density varying between 5 and 7 units per gross buildable acre. This yields a lot range vary much like the newly constructed subdivision on Highway 212 at 172nd. Assuming the entire 7.57 acres is usable these assumptions yield 38 - 53 units.

For the RA-1 designation we assume 7 residential lots are available at 1 acre per lot.

Land Use Capacity Estimates – 19.99 Acre Parcel:

For purposes of determining “Industrial” capacity we have already pointed out the slope conditions. In addition the site is approximately 2.5 miles east of the eastern edge of the existing Clackamas industrial district. In designating these lands industrial there was an implicit presumption that a major transportation corridor – “the Sunrise Corridor” would be constructed through the area with available access. Our understanding at present is that no identified funding for the project exists and that a number of other regional transportation projects have higher priority. Consequently, we cannot prudently consider such an improvement to be in place over a 20 year planning horizon. Slope, poor access and general lack of demand portend an industrial market for the property of very low density and low value structures.

Current Value Estimate of “Employment with Corridor Overlay” and “Industrial” in Damascus Expansion Area:

Inner Neighborhood:

As pointed out in the capacity section, we consider the 7.57 acre parcel designated employment with corridor to be developed as Inner Neighborhood as its “highest and best use” given topography, access and location. In order to establish a reasonable range of lot values for developing urban areas with infrastructure and nearby urban services, we evaluated looked at the recently (2004) developed residential subdivision less than 1 miles west of the parcel and adjacent to Highway 212. Our results are summarized in Table 1 below:

Table 1: Summary Property Value Data – Damascus Area Inner Neighborhood Highway 212 Development (Based on Assessor’s Market Value)

Average Lot Size:	5,805 sq. ft.
Median Lot Size:	5,148 sq. ft.
Average Lot Value:	\$93,100
Median Lot Value:	\$92,200
Average Total Property Value:	\$273,600
Median Total Property Value:	\$267,100
Number of Sales:	51

The above 51 sales from March 2004 and 2005 represent homes built in 2004 . With no better information we expect these sales to be most comparable to what would be marketable on the 7.57 acre parcel. However, the subject parcel does differ from the sample area in two material respects. First, the Hanks property is roughly 1 mile east of the sample area with urban level services not yet available. Second, the Hanks property has considerably better views and should be marketable at least as somewhat higher prices than the comparator subdivision.

In the first case, lack of urban services, we assume that development will not occur for another 10 years and so will discount the eventual sales price to account for the time

Resolution No. 06-3710
Attachment 2: Report of the Chief Operating Officer

delay. In the second case, we assume a slightly higher eventual sales price of \$100,000 - \$110,000 per developed lot. As in much of the previous work we continue to assume a lot development cost of \$50,000 per lot for all on site development costs, plus SDC's and similar fees.

Industrial:

Comparables for the Industrial designation are far more problematic. To establish a starting point for valuation, we examined recent (since 2004) sales of industrially designated property in the eastern section of the Clackamas Industrial District and two sales of Industrial and Regionally Significant Industrial Area (RSIA) property along Highway 212 in the Damascus expansion area. Table 1A below summarizes the information on the sales.

Table 1A: Summary Property Value Data - Clackamas Industrial District and Damascus Area Industrial/RSIA Highway 212 Development Recent Sales

Property Description	Sale Date	Size Acres	Per Acre Sale \$
3 land assembly sales, ready to build, hwy 212 Clackamas Ind. Dist.	2004	29.8	\$102,300
2 land assembly sales, ready to build, hwy 212 Clackamas Ind. Dist	2004	4.8	\$130,200
2 land assembly sales, Damascus expansion area, Hwy 212, Ind.- RSIA	2005 - 06	69.3	\$131,600
1 land sale, Damascus expansion area, Hwy 212, Ind.- RSIA	2005	34	\$45,700

In the context of the Hanks property industrial valuation, the above sales merit some discussion. The Clackamas Industrial District sales represent transactions for ready to build industrial land at the east end of the industrial district. As such they are legitimate comparators for flat land, with services in an existing, developed industrial area. Areas located at a distance from adjoining industrial development, without access or services and not possessing flat land site characteristics must be substantially discounted.

The remaining two sales are located adjacent to or close to Hwy 212 in the Damascus expansion area on a combination of industrial and RSIA designated land with slope characteristics similar to the Hanks property. However, the 69 acre property was purchased by Providence Health System. To our knowledge, they have no intention to develop it for industrial purposes.

The remaining 34 acre property, north and adjacent to the Providence property was likewise purchased by a developer for \$45,700 per acre and consists of sloping Industrial and RSIA designated land. At this time we have no information on how the developer intends to use this property given the Providence intended land use. However, we must at this time accept at face value that the developer was willing to pay \$45,700 per acre for industrial and RSIA designated property.

We take the \$45,700 per acre value as the base for comparison purposes for valuing industrial on the Hanks property. We further adjust the value downward to account for distance to the Clackamas Industrial District. (1 mile for the comparator property versus 2.5 for the Hanks property). For purposes of our valuation we assume a raw land sales price of \$40,000 per acre and a time to development of 10 years.

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 - 175,000. Accounting for the view and depending on design, infrastructure investment and market preference \$175,000 for ready to build RA-1 lots is possible on the property.

Alternative Valuation of Hanks 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 1971 through 2005. In 1971 the purchase price of the 47 original acres of land amounted to \$1,063 per acre. Table 3 below converts that value per acre to current 2005 dollars using 4 different value change indices. In addition we need account for the value of the current improvement that the assessor values at \$414,000 in 2005. To do this we increase the value 15% to account for generally low assessor market values and add it in to the Plantinga-Jaeger calculation. (i.e. - 414,000 x 1.15 then divided by 27.57).

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

Sale 4.34 Acres 1977:

Index ³	71 Value	2005 Value	Ratio	Value Per Acre 2005 \$
Port/Van CPI	39.7	197.7	4.98	\$22,563
House Value Index	25.5	241.5	9.47	\$27,336
Lot Value Index	4.7	120.0	25.5	\$44,375
S&P500 Stock Idx	95.6	1181.4	12.35	\$30,397

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 1971 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 Hanks Property value after adjusting for the value of the existing improvements should vary between \$22,600 and \$44,400 per acre.

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 tax lots. The S&P 500 Stock Index is from Microsoft Internet Explorer, Wikipedia, the free encyclopedia, S&P500 URL: <http://en.wikipedia.org>

Evaluation of Hanks Claim of Comparable Properties

The basis for the Hanks property value loss claim rests on a market value estimate of \$180,000 - 245,000 per developed, ready to build lot assuming 26 buildable lots are available on the property. The resultant range of value less \$20,000 per lot for infrastructure improvements amounts to \$4,160,000 - \$5,850,000. The value of the existing structure and 1.57 acres is then added in to arrive at a value of \$4,680,000 - 6,370,000. Current value is taken from an assumption that the current speculative value of the land per acre is of the range \$80,000 - \$110,000 per acre. The claimant states that the estimated range of loss with Metro's action amounts to \$2,160,000 - \$2,868,000. Though we are unable to replicate the exact amounts, the range stated is roughly equal to multiplying the speculative per acre values times 26 and adding in the value of the existing property and then subtracting that amount from the stated value of 26 RA-1 lots.

We take issue with the claimant's list of comparable properties as it uses properties from areas inside the Urban Growth Boundary in prestige neighborhood of developed cities with full urban services. Of the 10 properties submitted 5 are inside the UGB and most occupy prestige locations in developed neighborhoods with full urban services. Three properties do indeed represent isolated rural locations without full urban services. These properties average \$156,000 in value.

Hanks 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 Hanks property in its present location. To do so we have followed the procedure below.

1. Assume the 7.57-acre parcel is developed as at the Inner Neighborhood density level. Assume the 19.99-acre parcel is developed as Industrial and that the existing improvement becomes a nonconforming use at the time of land conversion.
2. For all residential uses assume a cost of providing water, sanitary sewer, drainage, streets and other on site utilities plus SDC's of \$50,000 per buildable lot with RA-1 and Inner Neighborhood. 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 \$175,000; near the top of the range for the area. Also increase the assessor's market value for the existing improvements 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 7.57 acres in inner neighborhood, we use \$100,000 and \$110,000 (high) per developed lot based on comparables. This property value is then discounted at 6.5% per year.
4. For the 19.99-acre parcel we assume a \$40,000 per acre raw land price based on comparables adjusted for access. 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 (10 years) at which time the improvements are demolished. The summed and discounted residential rents we add to the discounted land value.

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

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 Inner Neighborhood and Industrial and RA-1

Employment - Corridor 7.57 Acre Parcel Used as Inner Neighborhood

Low Range:	
Yield:	38
Value per Lot:	\$100,000
Development cost per lot:	\$50,000
Net value per developed lot:	\$50,000
Total Raw Land Value (38x50,000):	\$1,900,000
Current Market Value	
Discounted 10 years:	\$1,012,100
Value per acre (7.57 acres):	\$133,700
High Range:	
Yield:	53
Value per Lot:	\$110,000
Development cost per lot:	\$50,000
Net value per developed lot:	\$60,000
Total Raw Land Value (53x60,000):	\$3,180,000
Current Market Value	
Discounted 10 years:	\$1,694,100
Value per acre (7.57 acres):	\$223,800

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

Industrial 19.99 Acre Parcel Used as Industrial

Parcel Size:	19.99 acres
Estimate of raw land value at Time of conversion (per acre):	\$40,000
Total value (19.99 x 40,000):	\$799,600
Discounted to time of conversion In 10 years:	\$426,000
Plus present value of 10 years net Rents from SFD improvement:	\$129,500
Total Value:	\$555,500
Value per acre (19.99 acres):	\$27,800

Combined 7.57 and 19.99 Acre Parcels

Low:	
Total present value:	\$1,567,500
Value per acre (27.56 acres):	\$56,900
High:	
Total present value:	\$2,249,600
Value per acre (27.56 acres):	\$81,600

RA-1 (7.57 and 19.99 Acre Parcels Combined)

Yield:	26 DU
Lot Value:	\$175,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$125,000
Total Raw Land Value (26x125,000):	\$3,250,000
Plus assessor's value of remaining Property plus 15%:	\$650,000
Total Value of property:	\$3,900,000
Additional Lots Discounted 2 years:	\$3,438,500
Value per acre total (27.56 acres):	\$127,763

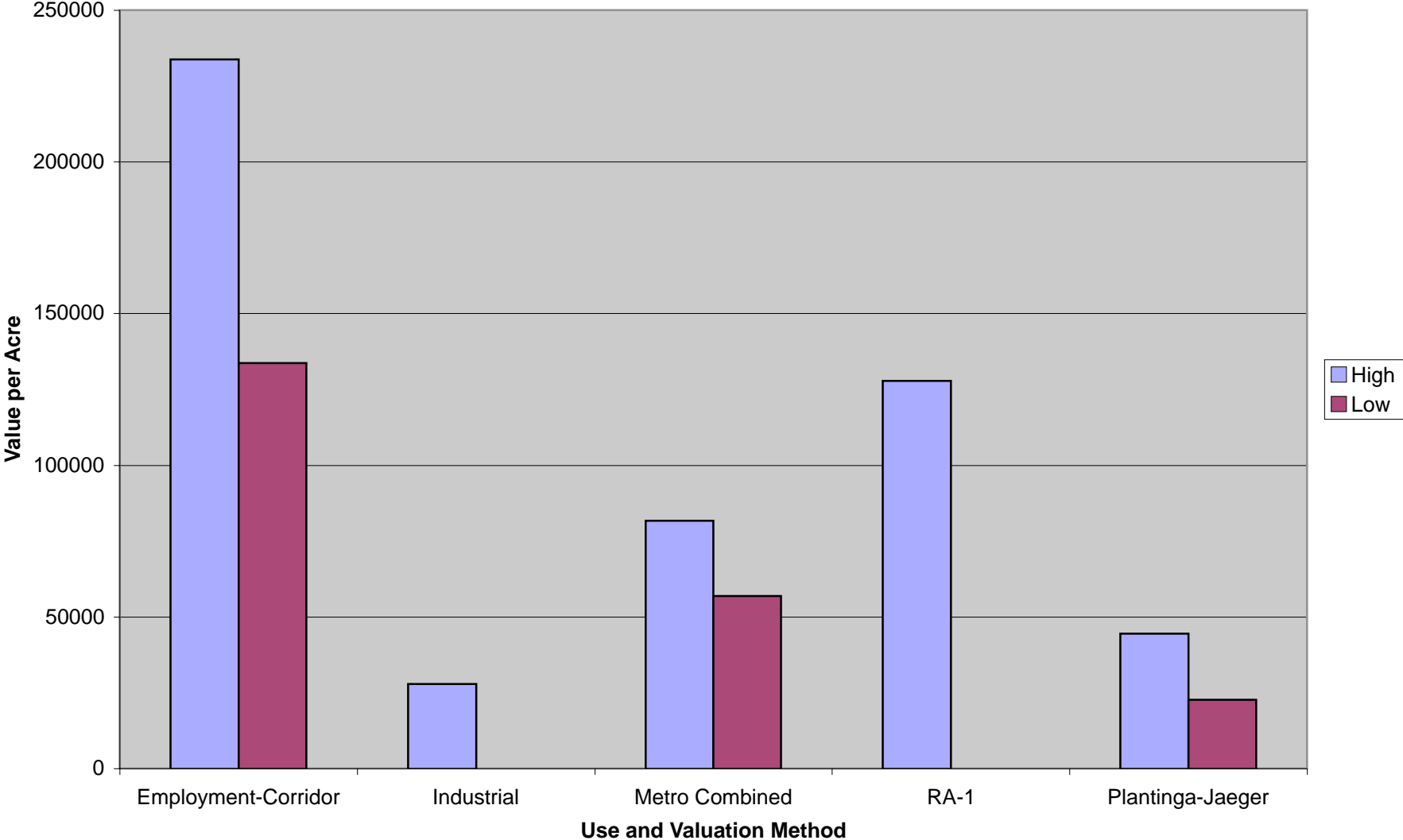
Resolution No. 06-3710
Attachment 2: Report of the Chief Operating Officer

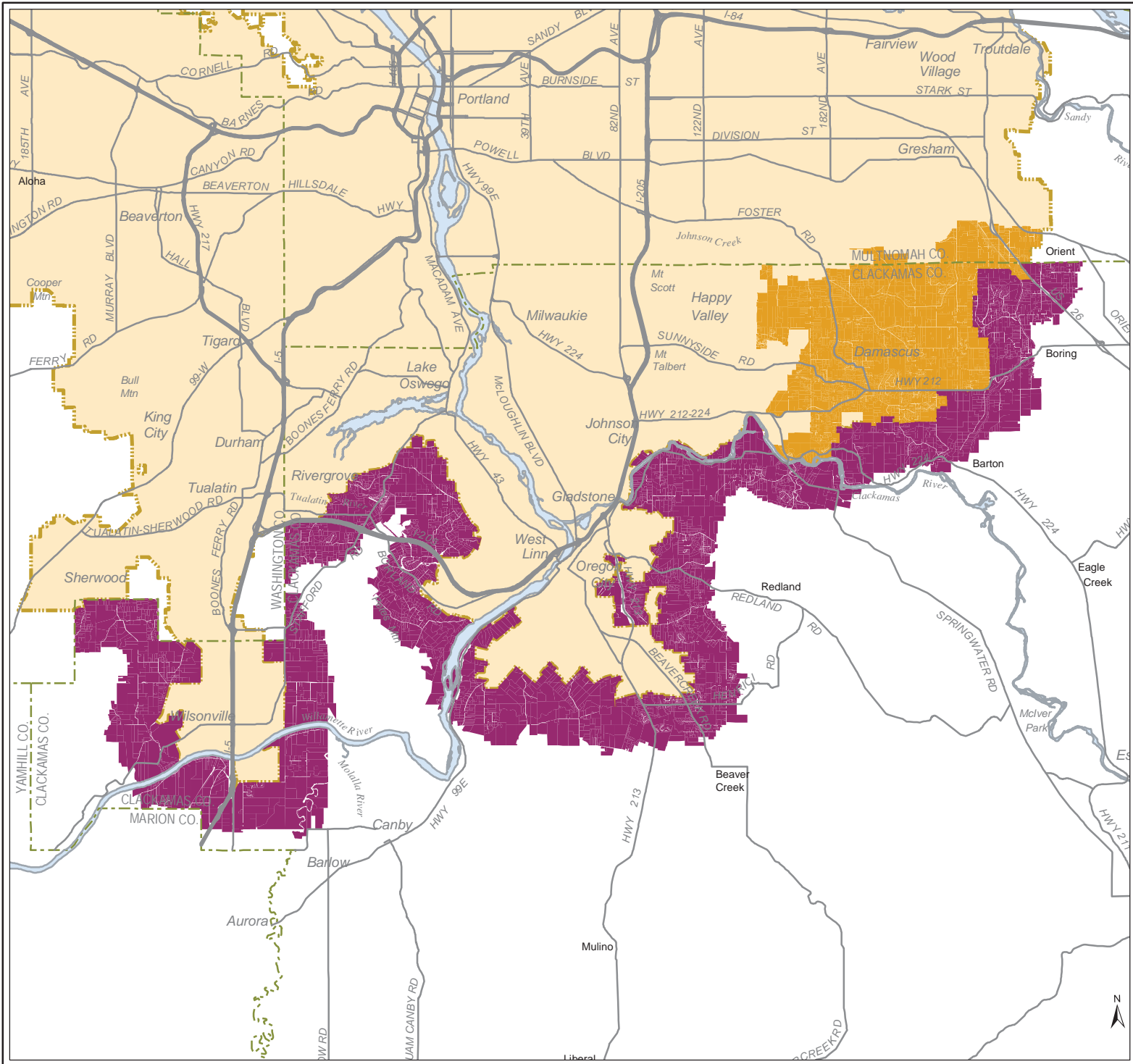
Figure A attached depicts the calculations in Table 4. We estimate the current value of the Hanks property with Employment - Corridor and Industrial designation to range between \$1,568,000 and \$2,250,000. The same property used as RA-1 in a rural setting would yield \$3,438,500. If developed with Metro's designation in 10 years the property would experience a loss over the default RA-1 use. All of this loss is attributable to the Industrial designation. The parcel used as Inner Neighborhood experiences a gain.

Using the Plantinga-Jaeger Method however, yields no loss. The Hanks property values per acre with Metro's designations range from \$56,900 to \$81,600. The Plantinga-Jaeger range per acre for both uses combined is \$22,600 - \$44,400. The Plantinga - Jaeger range falls entirely below the range of per acre values with Metro's designations.

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Figure A: Hanks Claim Values per Acre under Alternative Uses and Valuation Methods





R L I S

REGIONAL LAND INFORMATION SYSTEM

Resolution No. 06-3710
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 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

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

January 4, 2006

Andrew H. Stamp, P.C.
Attorney at Law
Kruse-Mercantile Professional Offices, Suite 9
4248 Galewood Street
Lake Oswego, Oregon 97035

Re: Measure 37 Compensation Claim with Metro
Your Clients: Franklin R. and Marlene A. Hanks
Property Address: 16000 SE Keller Road, Clackamas, Oregon 97015
Two Parcels: 7.57 acres and 19.99 acres ("20-acre Parcel")
Legal Descriptions: T2S, R3E, Sec. 8, Tax Lot 101 & T2S, R3E, Sec. 8B, Tax Lot 1101

Dear Andrew:

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 a response as to a current status of your clients' claim pending at Metro.

The Hanks' Property is located inside the Metro jurisdictional boundary, inside the Metro urban growth boundary and inside of Clackamas County. Any grant of a waiver by Metro for your property is subject to the validity of the waiver that you have previously obtained from Clackamas County. Therefore, Metro believes that your clients' claim must now wait a decision by the Oregon Supreme Court since the waiver granted to you by Clackamas County is at least temporarily on hold. If and when the Oregon Supreme Court upholds the validity of the Measure 37 claim, Metro will be prepared to respond to your clients' claim within 60 days of the date of the Court's decision.

In order to assist Metro in processing your clients' 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.

Andrew H. Stamp, P.C.
Attorney at Law
Kruse-Mercantile Professional Offices, Suite 9
January 4, 2006
Page 2

RESOLUTION NO. 06-3710
Attachment 4: COO Report

Pursuant to our telephone conversation of December 30, 2005, I understand that you and your clients are willing to wait and see what the Court does with Measure 37 and have agreed not to take any legal action against Metro until the Metro Council has a chance to process your clients' claim as outlined above, if the Court reinstates the measure.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel B. Cooper". The signature is fluid and cursive, with a large initial "D" and "C".

Daniel B. Cooper
Metro Attorney

DBC/sm

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

Andrew H. Stamp, P.C.
Attorney at Law
Kruse-Mercantile Professional Offices, Suite 9
January 4, 2006
Page 3

RESOLUTION NO. 06-3710
Attachment 4: COO Report

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

Measure 37 Claims Distr. List.
Dan Cooper (w/ Orig. Encl.)
Dick Benner (w/ Copy Encl.)
RESOLUTION NO. 06-3710
Dick Balen (w/o Copy Encl.)
Attachment 4: CCO Report
Lydia Neill (w/ Copy Encl.)

Andrew H. Stamp, P.C.
Attorney at Law
Kruse-Mercantile Professional Offices, Suite 9
4248 Galewood St.
Lake Oswego, OR 97035

Tele: 503.675.4318
Fax: 503.675.4319

andrewstamp@comcast.net

JULY 8, 2005

VIA CERTIFIED U.S. MAIL (RRR)

RECEIVED

JUL 12 2005

Mr. Daniel B. Cooper
Office of Metro Attorney
600 NE Grand Ave.
Portland, OR 97232

OFFICE OF METRO ATTORNEY

Re: *Measure 37 Claim for Franklin R. and Marlene A. Hanks for Real Property Located in Clackamas County, Commonly Known as 16000 SE Keller Road, Clackamas, OR, 97015 (T 2S, R 3E, Sec. 08, Tax Lot 101, and T 2S R 3E, Sec 8B Tax Lot 1101)*

Dear Mr. Cooper:

I represent Franklin R. Hanks and Marlene A. Hanks and am submitting this written demand for just compensation on their behalf pursuant to Measure 37. Accompanying this Measure 37 demand are corresponding claims submitted to the State of Oregon (via DAS and LCDC), the City of Damascus, and Clackamas County.

The subject property lies within Metro's jurisdictional boundary. In 2004, Metro brought the subject property into the Urban Growth Boundary ("UGB"), ostensibly for use as future industrial land. See Metro Ord. 04-1040(B). Exhibit 7. As part of that legislative enactment, the Metro Council required the following:

The city or county with planning responsibility for the study area included in the UGB shall apply interim protection standards of the Metro Code Title 11, UGMFP, section 3.07.1110 to the study area until the effective date of the comprehensive plan provisions and land use regulations adopted to implement Title 11.

See Exhibit F to Ordinance No. 04-1040B (entitled "Conditions of Addition of Land to the UGB"). Exhibit 7. Metro Code Chapter 3.07.1110 (Interim Protection of Areas Brought into Urban Growth Boundary) prohibits, among other things, any land division that would result in a creation of new parcel which would be less than 20 acres in total size.

The Hanks family seeks removal (waiver) of any and all Metro land use regulations not related to public health and safety, whether specifically enumerated below or not, which would prohibit the Hanks family and its partners, heirs, or assigns from constructing an urban-density (one acre lots), single-family residential subdivision similar in scope and design to those proposed in the conceptual site plans enclosed as Exhibit 6. We have identified those regulations which we believe would prevent the proposed

subdivision under current land use laws below. This list should not be viewed as exhaustive. To the extent that Metro is considering the waiver "option" under Section 8 of the Act, such waiver must necessarily be sufficiently broad to allow the Hanks family to accomplish its stated goal of constructing an urban-density residential subdivision.

If Metro or its staff believe that we have not listed a Metro land use regulation which (1) went into effect after March 15, 1971, and (2) would prevent the proposed subdivision (or one similar in scope) from being accomplished, or (3) would add significant unexpected costs to a subsequent subdivision application (particularly with regard to exactions), we respectfully ask that you notify their legal representative, Mr. Andrew H. Stamp at 503.675.4318 and inform us of which provision(s) we have failed to identify. We thank you in advance for your courtesies in this regard.

We request removal/waiver of the following land use regulations:

1. Chapter 3.07 of the Metro Urban Growth Management Functional Plan, including, but not limited to, the following sections:
2. Chapter 3.07.1110 (Interim Protection of Areas Brought into Urban Growth Boundary). This section applies to land which Metro has brought into the UGB, and for which local governments have not yet adopted comprehensive plans and implementing regulations for such property which complies with Metro UGMFP 3.07.1120. This section prohibits any land division that would result in a creation of new parcel which would be less than 20 acres in total size.
3. Ordinance No. 04.1040(B), Exhibit F (Entitled: "Conditions on Addition of Land to the UGB."), Section I (c). This section requires local governments such as the City of Damascus and Clackamas County to apply the interim protection measures set forth in Metro Code Title 11, UGMFP Section 3.07.1110 to the subject property.

If Metro believes that there is an alternative development scenario that would result in more high density urban development and would better meet the goals and objectives of the 2040 Growth Concept, we would be happy to discuss other options for this site.

We thank you and your staff for your attention to this matter. Please let me hear from you at your earliest convenience.

Sincerely,

ANDREW H. STAMP, P.C.


Andrew H. Stamp

AHS:ahs
Enclosures
cc: Client

Andrew H. Stamp, P.C.
Attorney at Law
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4248 Galewood St.
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Tele: 503.675.4318

Fax: 503.675.4319

andrewstamp@comcast.net

JULY 8, 2005

VIA CERTIFIED U.S. MAIL (RRR)

Clackamas County Planning Division
Attn: Jennifer Hughes
9101 SE Sunnybrook Blvd.
Clackamas, OR 97015.

Re: **Measure 37 Claim for Franklin R. and Marlene A. Hanks for Real Property Located in Clackamas County, Commonly Known as 16000 SE Keller Road, Clackamas, OR, 97015 (T 2S, R 3E, Sec. 08, Tax Lot 101, and T 2S R 3E, Sec 8B Tax Lot 1101)**

Dear Ms. Hughes:

I represent Franklin R. Hanks and Marlene A. Hanks and am submitting this written demand for just compensation on their behalf pursuant to Measure 37. Accompanying this Measure 37 demand are corresponding claims submitted to the State of Oregon (via DAS and LCDC), the City of Damascus, and Metro.

The County's Measure 37 form entitled "Supplemental Information" contains a list of eight questions. Those questions have been reproduced below in bold. We have provided responses to each of the eight questions, as follows:

- 1. Other persons with an interest in the property (such as lienholders.).** N/A
- 2. Exact date the current owner acquired the property.** Mr. and Mrs. Hanks ^{first} acquired the subject property, commonly known as 16000 SE Keller Road, Clackamas, OR, 97015 on March 15, 1971, pursuant to a land sale contract. The deed from this sale is included at Exhibit 1.

Land Division History. The subject property consists of two parcels, a 7.57 acre parcel and a 19.99 acre parcel (aka: the "20 acre parcel."). The 20 acre parcel was created on June 13, 1989, when the parent 40-acre parcel was legally partitioned into two 20-acre parcels. See Clackamas County File No. 838-FM, M (Exhibit 3). Of these two lots, the northern 20-acre parcel resulting from the 1989 partition was granted approval for a farm management dwelling

Handwritten note:
The "first" acquisition of the subject property.

Handwritten signature:
Andrew Stamp

as part of that same land use application. *Id.* This plat was recorded in 2002, and therefore is designated as "Partition Plat 2002-58" on the tax assessor's map.

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.

4. **What regulations do you believe lowered the value of the property? When did the regulation take effect?**

a. Summary of Land Use Regulations in effect at the time the Owner Acquired the Subject Property.

In working with County planning staff, it is our understanding that the subject property was first zoned RA-1 on September 8, 1964. A copy of the RA-1 zoning district is included at Exhibit 2. The Northern portion of the property (*i.e.* the 7.57 acre parcel) property retained the RA-1 zoning district until June 18, 1980, when, apparently, it was rezoned as part of the County's Comprehensive Plan update.¹ The northern 7.57-acre parcel was zoned Rural Residential Farm/Forest - 5 acre ("RRFF-5"). Some time thereafter, the property was rezoned to its current designation, RA-2.

The "South 40" portion of the property was zoned Transitional Timber-20 ("TT-20") sometime in the 1980s, in order to comply with Statewide Planning Goals 3 and 4. At some point in the mid-1990s, the "South 40" was rezoned to its current designation, which is "Agricultural/Forest District ("AG-F"). The current comprehensive plan designation for the 20 acre parcel is Forest ("F").

It is our understanding that the County adopted its first comprehensive plan in August of 1974, after the Hanks family purchased the property. Likewise, we understand that the first Subdivision and Partitioning Ordinance was also adopted in August of 1974. Therefore, neither of these documents could have applied to this property at the time the Hanks family purchased it.

The Hanks family's ownership of the subject property also predates Senate Bill 100 and the enactment of the Statewide Planning Goals.

The subject property lies within Metro jurisdictional boundary. In 2004, Metro brought the subject property into the Urban Growth Boundary ("UGB"), ostensibly for use as future industrial land. *See* Metro Ord. 04-1040(B). Exhibit 7. As part of that legislative enactment, the Metro Council required the following:

The city or county with planning responsibility for the study area included in the UGB shall apply interim protection standards of the Metro Code Title 11, UGMFP, section 3.07.1110 to the study area

¹ We have not been made privy to any of the documents which effectuated post-1971 rezoning actions, but since they post-date the owner's acquisition date, they are not likely relevant to this proceeding.

until the effective date of the comprehensive plan provisions and land use regulations adopted to implement Title 11.

See Exhibit F to Ordinance No. 04-1040B (entitled “Conditions of Addition of Land to the UGB”). Exhibit 7. Metro Code Chapter 3.07.1110 (Interim Protection of Areas Brought into Urban Growth Boundary) prohibits, among other things, any land division that would result in a creation of new parcel which would be less than 20 acres in total size.

- b. County land use regulations currently in effect which were enacted subsequent to March 15, 1971, and which restrict the use and reduce the value of the property.

As mentioned above, the subject property has two separate zoning designations. Each is discussed below separately.

1. The 7.57 Acre Parcel

The 7.57 acre portion of the subject property is currently within the jurisdictional boundaries of both Metro and the City of Damascus. The property was added to the UGB on June 24, 2004. *See* Metro Ord. 04-1040(B) (discussed, *supra*). Exhibit 7. Under the City of Damascus Ordinance 2005-01, Clackamas County’s comprehensive plan and zoning map designations until such time as the City rezones the property for industrial uses. As mentioned above, the current zoning designation is RA-2. *See* Zoning Map at Exhibit 4.

2. The 19.99 Acre (aka “20-acre”) Parcel

The 20-acre parcel is currently within the jurisdictional boundary of Metro, but is not within the City limits of Damascus. Clackamas County staff informs us that the property is current zoned in a mixed use zone known as the “Agricultural/Forest District (“AG-F”), a zone that is acknowledged to comply with both Goals 3 and 4. *See* Zoning Map at Exhibit 4.

3. Current Regulations.

We have identified a number of State of Oregon, Metro, City of Damascus and Clackamas County land use regulations currently in effect which were enacted subsequent to March 15, 1971, and which restrict the use and reduce the value of the property. These land use regulations are listed below. These land use regulations, and perhaps others, currently prevent this property from being used in the manner described in below in response to question 4.

Please note that the land use regulations listed below are those which we have been able to identify at this time. It is not clear that every provision of these land use regulations would apply to Mr. and Mrs. Hanks’ ability to use the land by partitioning and selling discrete portions as stated herein. We believe that the list provided below is an adequate characterization of the land use regulations causing the restriction of use and reduction in value for the property, though it is possible that additional land use regulations apply. To the extent that the land use regulations listed below not fully capture all land use regulations preventing

Mr. and Mrs. Hanks and their family from enjoying all uses available at the time of acquisition, they reserves the right to seek relief from, or base her compensation claim on, additional applicable land use regulations. Additionally, due to the novelty of Measure 37 and the claims of Mr. and Mrs. Hanks and their family thereunder, we reserve the right to amend or supplement this claim as necessary to satisfy the construction and application of Measure 37. Our position is that any land use regulation (as defined in Measure 37) that prohibits or impairs a property owner's ability to use the property by partitioning, as set forth herein, would reduce the value of the property. Under Measure 37, the compensation claim must be paid or ultimately the owner shall be allowed to use the property as permitted at the time of acquisition (in this case, March of 1971).

I. LIST OF STATE OF OREGON STATUTES AND ADMINISTRATIVE RULES SOUGHT TO BE REMOVED FROM SUBJECT PROPERTY

The following represents what we believe to be a comprehensive list of state and local land use regulations that would prohibit Mr. and Mrs. Hanks from completing the proposed 26 lot subdivision, as set forth in the narrative to this Measure 37 claim. As the reader will note, we have erred on the side of caution, and have attempted to be as inclusive as possible while not being too vague to make evaluation of the claim difficult. If the Regulating Entity or its staff believe that we have missed a land use regulation which (1) went into effect after March 15, 1971, and (2) would prevent the proposed subdivision (or one similar in scope) from being accomplished, or (3) would add significant unexpected costs to a subsequent subdivision application (particularly with regard to exactions), we respectfully ask that you notify their legal representative, Mr. Andrew H. Stamp at 503.675.4318 and inform us of which provision(s) we have failed to identify. We thank you in advance for your courtesies in this regard.

Moreover, to the extent that the enacting entity seeks to fulfill its obligation to provide just compensation to the present owner by resorting to Section 8 of Measure 37, the enacting entity must be prepared to waive any and all non-public health and safety land use laws and regulations, whether specifically referenced herein or not, which would prohibit the present owner from accomplishing a subdivision as set forth in the map contained at Exhibit 6.

A. LIST OF STATE OF OREGON STATUTES AND ADMINISTRATIVE RULES SOUGHT TO BE REMOVED FROM SUBJECT PROPERTY

1. Statewide Planning Goals

- a. OAR 660-015-0000(2) (Goal 2 - Exceptions) - Mr. and Mrs. Hanks seek removal of Goal 2 to the extent that this Goal can be understood to provide a process for taking exception to Goal 3. In this case, the Wilson family might not be able to accomplish the desired subdivision using the exceptions process, because there are opponents who argue that the Wilson property does not meet the applicable standards for a reason, built, or committed exception.
- b. OAR 660-015-0000(3) (Goal 3 – Agriculture). Self-explanatory.

- c. OAR 660-015-0000(4) (Goal 4 - Forestry). Self-explanatory.
- d. OAR 660-015-0000(12) (Goal 12 - Transportation). (to the extent that Goal 12 can be read to prohibit, in substance, a residential subdivision as generally proposed in Exhibit 6).
- e. OAR 660-015-0000(14) (Goal 14 - Urbanization). Mr. and Mrs. Hanks seeks removal of Goal 14 to the extent that this Goal can be understood to prevent the subdivision of a 40.00 acre lot on EFU zoned land, in a situation where some or all of the resulting lots will be urban in nature, and where some or all of the resulting lots will receive urban levels of water and sewer service.

2. State Land Use Statutes.

- a. ORS Chapter 92 (to the extent that Chapter 92 can be read to prohibit, in substance, a residential subdivision as generally proposed in Exhibit 6).
- b. ORS 197.175(2)(d). Requires County to make land use decisions in compliance with comprehensive plan.
- c. ORS 215.263(2), (4), (9), and (12). These provisions regulate land divisions on EFU lands.
- d. ORS 215.283. ORS 215.283 sets forth certain allowed and "conditional uses" in the EFU zone. As currently used, the subject property qualifies for a dwelling under ORS 215.283(1)(e)(A), but not otherwise.
- e. ORS 215.284. ORS 215.284 establishes standards for "dwellings not in conjunction with farm use. These standards are extremely demanding, and the subject property likely would not qualify.
- f. ORS 215.296. Sets forth the "significant effect" test for uses allowed under ORS 215.283(2). It is debatable whether this standard applies at all, since the subdivision is not a use allowed under 215.283(2), but it seems to apply in spirit if nothing else.
- g. ORS 215.700, ORS 215.705 (Dwellings in farm or forest zone; criteria); ORS 215.720 (Criteria for forestland dwelling under ORS 215.705). ORS 215.705 and 215.720 work in tandem and together limit the ability of landowners such as Mr. and Mrs. Hanks to construct dwelling units on EFU lands.
- h. ORS 215.780(1)(a) (Minimum lot or parcel sizes; land division to establish a dwelling.). This section establishes a basis minimum lot size for property zoned for "exclusive farm use." Since the subject property is zoned "EFU" (80-acre

minimum) in the Clackamas County Development Code, this statute applies and would otherwise prevent the creation of the desired partition.

3. State Administrative Rules Implementing State Land Use Statutes and Statewide Planning Goals

- a. OAR Chapter 660, Division 4. Inasmuch as OAR Ch 660, Div 4 requires a local government to take one of three different types of "exceptions" in order to approve land use applications that would conflict with one or more of the applicable Statewide Planning Goals, we seek waiver of the requirement to undergo the "exception" process and be bound by its results.
- b. OAR 660-004-0040. This administrative law regulates rural residential land.
- c. OAR Chapter 660, Division 6. To the extent that OAR Chapter 660, Division 6 would prohibit Mr. Hanks or his family from constructing a subdivision identical or similar in scope to the site plan set forth in Exhibit 6 to this application, he seeks removal of this Division of the administrative rules. In particular, we seek removal of OAR 660-006-0025, which by negative implication limits the type and intensity of residential use that is allowed on forest lands. In addition, we seek removal of OAR 660-006-0026, which effectively prevents the County from approving land divisions in the nature of the site plan proposed at Exhibit 6 on forest lands. We also seek removal of the limitations against the construction of dwelling units on forest lands, as set forth in OAR 660-006-0027 and .0029.
- d. OAR 660-012-0060. We request waiver of this provision to the extent that it could be argued that the proposed subdivision triggers any of the requirements set forth therein.
- e. OAR 660-12-0065. We suspect that this provision would not apply. However, to the extent that OAR 660-12-0065 would prohibit Mr. or Mrs. Hanks or their family from subdividing their land as set forth above, they seek removal of this administrative rule. They also seek removal of OAR 660-12-0065 to the extent that it would require them to construct on-site or off-site public transportation improvements that are not needed to further the public health and safety of the traveling public.
- f. OAR 660-033-0090; OAR 660-033-0120; OAR 660-033-0130; OAR 660-033-0135. OAR 660-033-0090 limits uses on high value farmland to those listed in OAR 660-033-0120. OAR 660-033-0120 in turn would prevent a non-farm dwelling or any type of urban development on the subject 27.57 acres. OAR 660-033-0130 sets certain standards for uses allowed by OAR 660-033-0120. OAR 660-033-0135 sets standards for dwelling used in conjunction with farm use. Mr. and Mrs. Hanks could not qualify for an urban density residential subdivision under this section. Viewed in toto, these four (4) sections effectively prohibit further division of the Hanks parcels.

- g. OAR 660-033-0100. OAR 660-033-0100 establishes minimum lot sizes for EFU land, and sets certain exceptions. As applied to this case, it sets the minimum lot size at 80 acres. None of the exceptions would assist the claimants.

B. LIST OF CLACKAMAS COUNTY LAND USE REGULATIONS SOUGHT TO BE REMOVED FROM SUBJECT PROPERTY

The Hanks family seeks removal (waiver) of any and all Clackamas County land use regulations not related to public health and safety, whether specifically enumerated below or not, which would prohibit the Hanks family and its partners, heirs, or assigns from constructing an urban-density (one acre lots), single-family residential subdivision similar in scope and design to those proposed in the conceptual site plans enclosed as Exhibit 6. Again, we have identified those regulations which we believe would prevent the proposed subdivision under current land use laws. This list should not be viewed as exhaustive. To the extent that the County is considering the waiver "option" under Section 8 of the Act, such waiver must necessarily be sufficiently broad to allow the Hanks family to accomplish its stated goal of constructing an urban-density residential subdivision.

2. ZDO §308 (Rural Area Single Family Residential District, RA-2) generally, including, but not limited to, the following subsections:
 - a. ZDO §308.02 (Area of Application).
 - b. ZDO §308.03 (Primary Uses) and ZDO §308.06 (Conditional Uses) which together set forth the uses allowed in the RA-2 zone. These two provisions, when read in concert with ZDO §308.07 (Prohibited and Preexisting Uses), effectively prevents the property from being used as set forth in the narrative and at Exhibit 6.
 - c. ZDO §308.07 (Prohibited Uses). This section prohibits a subdivision within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots parcels of less than 20 acres in size.
 - d. ZDO §308.08 (Dimensional Standards). Sets forth minimum lots sizes and setbacks which would prevent the owner from building an urban-density single family residential subdivision.
 - e. ZDO §308.08 (Development Standards). Makes any application subject to development standards set forth in ZDO Section 1000.
3. ZDO §407 (Agriculture/Forestry AG/F) generally, including, but not limited to, the following subsections:
 - a. ZDO §407.02 (Area of Application).

- b. ZDO §407.04 (Primary Uses) and ZDO §407.05(Uses Subject to Review by the Planning Director) which together set forth the uses allowed by-right in the A/GF zone. These two provisions, when read in concert with ZDO §401.08 (Prohibited and Preexisting Uses), effectively prevents the property from being used as set forth in the narrative. *See* Response to Question 8.
 - c. ZDO §407.08 (Prohibited Uses). In particular, ZDO §407.08(A), (C), (D), (F), & (G) which work in tandem with ZDO §401.04 and .05 to prohibit the property from being used in the manner set forth in the narrative and in Exhibit 6.
 - d. ZDO §407.09. (Siting Standards for Dwellings and Structures). The AG/F zone also includes specific standards for development of residences (ZDO 407.09). Many of these standards relate to public health and safety, as they are intended to prevent destruction of real property due to forest fires. Such public health and safety related standards are exempt from Measure 37. Mr. and Mrs. Hanks seek removal of those siting standards that are not intended to further public health and safety concerns.
 - e. ZDO §407.10 (Land Divisions, Dimensions, and Adjustments). In particular, Mr. and Mrs. Hanks seek removal of the 80-acre minimum lot size provision set forth at ZDO §407.10(A) & (B).
4. ZDO § 902.01 (Lot Size Exceptions and Modifications). In particular, ZDO § 902.01(B) and 902.02(A).
 5. ZDO §1000 *et seq.* (Development Standards)
 - a. ZDO §1001.02 (Application of these Standards).
 - b. ZDO §1002. *et seq.* (Protection of Natural Features) In particular, but not limited to, ZDO §1002.03(A), (B), and (D).
 - c. ZDO §1007 *et. seq.* (Roads, Circulation, and Parking). Mr. Hanks seeks removal of transportation-related code provisions to the extent that these provisions seek to impose upon the developer the requirement to construct non-safety or non-health related public or private transportation infrastructure. Mr. Hanks intends to provide sufficient public and private transportation infrastructure necessary to protect the health and safety of the traveling public.
 - d. ZDO §1008 *et. seq* (Storm-drainage). Mr. Hanks seeks removal of storm drainage related code provisions to the extent that these provisions seek to impose upon the developer the requirement to construct non-safety or non-health related public or private storm drainage infrastructure. Mr. Hanks intends to provide storm drainage infrastructure and water control facilities necessary to protect the health and safety of the public and to prevent a nuisance or unlawful water trespass upon downstream property owners, and to the extent required to comply with federal law.

- e. ZDO §1022 (Concurrency). In all likelihood, ZDO §1022 does not provide any substantive requirements applicable to Mr. Hank's proposed subdivision. For example, the proposed subdivision does not require public water or sewer service. Nonetheless, it is difficult to evaluate the applicability of the subsection addressing transportation facilities (ZDO § 1022.07) at this time, and therefore, Mr. Hanks seeks removal of its provisions.
6. ZDO §1105.02 (Subdivisions).
 - a. ZDO §1105.02(A).
 - b. ZDO §1105.03(E).
 - c. ZDO §1105.06.ZDO
7. Clackamas County Comprehensive Plan: Chapter 3, Natural Resources & Energy, and Chapter 4, Land Use.
 - Land Use, Future Urban Policies. This section enacts policies to guide development of lands designated "Future Urban." Policy 7.1(b) adopts a 20-acre minimum lot size. Policy 7.2 prohibits subdivisions until land qualifies as "immediate Urban."
 - Rural Policy.
 - Agriculture Policy.
 - Wildlife Habitats and Distinctive Areas Policy (to the extent applicable).
- Chapter 5 (Transportation) & Transportation System Plan (to the extent applicable).

III. LIST OF METRO REGULATIONS SOUGHT TO BE REMOVED FROM SUBJECT PROPERTY

The Hanks family seeks removal (waiver) of any and all Metro land use regulations not related to public health and safety, whether specifically enumerated below or not, which would prohibit the Hanks family and its partners, heirs, or assigns from constructing an urban-density (one acre lots), single-family residential subdivision similar in scope and design to those proposed in the conceptual site plans enclosed as Exhibit 6. Again, we have identified those regulations which we believe would prevent the proposed subdivision under current land use laws. This list should not be viewed as exhaustive. To the extent that Metro is considering the waiver "option" under Section 8 of the Act, such waiver must necessarily be sufficiently broad to allow the Hanks family to accomplish its stated goal of constructing an urban-density residential subdivision.

1. Chapter 3.07 of the Metro Urban Growth Management Functional Plan, including, but not limited to, the following sections:
2. Chapter 3.07.1110 (Interim Protection of Areas Brought into Urban Growth Boundary). This section applies to land which Metro has brought into the UGB, and for which local governments have not yet adopted comprehensive plans and implementing regulations for such property which complies with Metro UGMFP 3.07.1120. This section prohibits

any land division that would result in a creation of new parcel which would be less than 20 acres in total size.

3. Ordinance No. 04.1040(B), Exhibit F (Entitled: "Conditions on Addition of Land to the UGB."), Section I (c). This section requires local governments such as the City of Damascus and Clackamas County to apply the interim protection measures set forth in Metro Code Title 11, UGMFP Section 3.07.1110 to the subject property.

IV. LIST OF CITY OF DAMASCUS LAND USE REGULATIONS SOUGHT TO BE REMOVED FROM SUBJECT PROPERTY (APPLICABLE TO 7.57 ACRE PROPERTY ONLY).

The Hanks family seeks removal (waiver) of any and all City of Damascus (Clackamas County) land use regulations not related to public health and safety, whether specifically enumerated below or not, which would prohibit the Hanks family and its partners, heirs, or assigns from constructing an urban-density (one acre lots), single-family residential subdivision similar in scope and design to those proposed in the conceptual site plans enclosed as Exhibit 6. Again, we have identified those regulations which we believe would prevent the proposed subdivision under current land use laws. This list should not be viewed as exhaustive. To the extent that the City is considering the waiver "option" under Section 8 of the Act, such waiver must necessarily be sufficiently broad to allow the Hanks family to accomplish its stated goal of constructing an urban-density residential subdivision.

4. Ordinance 2005-01, dated January 17, 2005. This Ordinance adopts the "Clackamas County Comprehensive Plan and Zoning Development Ordinances" as well as other unspecified "related land use ordinances" as the land use planning documents governing development in the City of Damascus.
 5. Applicable Clackamas County Regulations, as set forth above. These Clackamas County regulations prevent the Hanks Family from using the property for its highest and best use, which is single-family residential homes.
- 5. Please describe how this regulation(s) restricts the use of the property and reduces the property's fair market value.**

As discussed in more detail in response to question 8 below, Mr. and Mrs. Hanks plan to create 27 separate legal parcels out of the existing two parcels through a subdivision process. *See also* Map at Exhibit 6. Current land use restrictions, working in conjunction with state regional, and local law, prohibit the owner from completing desired subdivision in the

- ❖ Prevent partitioning or subdivision of the existing parcels.
- ❖ Prevent the construction of single-family residences on newly-created lots.
- ❖ Demand infrastructure improvements which are unnecessary and undesirable in the rural zones.
- ❖ Prohibition of individual water supplies.

To the extent necessary to avail themselves fully of their family's rights under Measure 37, Mr. and Mrs. Hanks are prepared to build single family homes on those parcels and provide the necessary public and non-public infrastructure required for them, so that the homes would lawfully exist on lawfully created parcels prior to their sale or transfer.

6. How much has the fair market value of your property been reduced by enactment or enforcement of the regulation?

The current fair market value of the subject property, as currently configured, is \$400,000.00, assuming little or no redevelopment potential. However, since the land was recently brought into the UGB, its speculative value has gone up considerably. According to Mr. Michael Hammons, President of Prudential Northwest Properties Damascus, there have been a number of transactions in the Damascus area where developers are paying up to \$80,000 to \$110,000 per acre for similarly situated land. *See Exhibit 5.* Assuming the Hanks family could attract a similar buyer, that would place the value of the property at somewhere in the neighborhood of \$2,000,000 - \$3,000,000.

Mr. Hammonds conducted a Comparative Market Analysis on June 28, 2005. The parameters Mr. Hammons used for comparable sales included all properties in the Clackamas County area that had sold in the last two years, and which were sited on parcels between .83 and 1.4 acres in size. Based on a survey of comparable sales in the vicinity, Mr. Hammons concluded that the sale price of residential properties on acreage does not necessarily correlate with the amount of acreage on the property. In other words, buyers are primarily focused on the size, condition, and features of the dwelling unit, and the fact that a property may be 1, 2, or 3 acres in size may only have a marginal effect, if any, on the final sale price.

According to Mr. Hammons, buildable lots sized in the one-acre range are generally worth approximately \$180,000 to \$245,000 the Damascus area, depending upon the caliber of the home required on the lot. *See Exhibit 5.* Thus, if the owner was able to subdivide the subject property in a manner that the 26 dwelling units could be constructed, the 27.57 acre parent parcel would be worth approximately \$ 4,680,000 to \$6,370,000. The owners' son, a developer of residential lands in Oregon, estimates that it would cost no more than \$ 20,000 per lot (and possibly less) to provide the necessary public and private infrastructure necessary to prepare the land for construction of 26 dwelling units (\$520,000). For this reason, the owners believe that the diminution in value is, at a very minimum, in the neighborhood of \$2,160,000 to \$ 2,868,000, depending on sales and infrastructure costs.

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.

Mr. and Mrs. Hanks request that the County, state, Metro and the City permanently remove the regulations set forth above from this property so that the property may be subdivided and developed as proposed in Exhibit 6.

In the alternative, Mr. and Mrs. Hanks respectfully demand that the compensation be paid to them pursuant to Measure 37.

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

The proposed subdivision will contain a maximum of 26 single-family residential lots. The lots average just over one-acre in size. See Preliminary Site Map at Exhibit 6. Each lot will be served by a separate septic system and individual wells. Local access roads within the subdivision will be paved at 28 ft. Storm-water detention will be handled on-site.

Please note that the site plan presented in Exhibit 6 is conceptual, and final site plans may vary considerably, depending on the results of future engineering work and site analysis. However, the site plan presented in Exhibit 6 represents the maximum density that may be desirable for the site.

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 appraiser must meet the uniform Standards of Professional Appraisal Practice and the requirements of Measure 37 Claims Process Ordinance.**

We have not engaged a licensed MAI appraiser to assist in determining the amount of just compensation due to him pursuant to Measure 37, because the County has indicated that it does not have funding to compensate Measure 37 claimants. Since the County appears to have taken the compensation remedy "off the table," quantifying the exact amount of diminution in value does not appear to be particularly relevant.

Nonetheless, if the County believes that this case presents an situation where compensation would be County's preferred remedy, and the County willing to share with the owner/claimant any appraisal for the property that the county has in its position (or any future appraisal for the property that it acquires), please convey that information to us via written correspondence directed to the address listed in the letterhead. Upon receipt of such a letter, we will endeavor to obtain a more precise estimate of the loss of property value caused by the adoption of the land use regulations set forth above and submit that information to the County.

- 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.**

A Measure 37 Lot Book Service is included at Exhibit 1.

- 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.**

To the best of our knowledge, there are no leases, covenants, conditions and restrictions (CC&Rs) applicable to the property, nor any other document that imposes land use or zoning restrictions on the use of the property.

d. Claims processing fee – \$750.00.

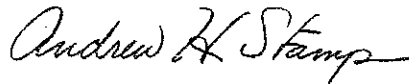
We have enclosed with this demand a check in the amount of \$750.00. As we understand the facts, neither the state, Metro or the City have enacted any processing fees.

We hope that Clackamas County will act promptly, fairly and responsibly to provide her the clear benefit she is entitled to under Measure 37.

Please let me hear from you at your earliest convenience.

Sincerely,

ANDREW H. STAMP, P.C.



Andrew H. Stamp

AHS:ahs
Enclosures
cc: Client

Andrew H. Stamp, P.C.
Attorney at Law
Kruse Mercantile Professional Offices, Suite 9
4248 Galewood Street
Lake Oswego, OR 97035

Tele: 503.675.4318
Fax: 503.675.4319
andrewstamp@comcast.net

July 8, 2005

VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED

Mr. Steve Rhodes
City Manager
City of Damascus
19750 SE Damascus Lane
Damascus, OR 97009

*Re: Measure 37 Claim for Franklin R. and Marlene A. Hanks for
Real Property Located in Clackamas County, Commonly Known as 16000 SE
Keller Road, Clackamas, OR, 97015 (T 2S, R 3E, Sec. 08, Tax Lot 101, and T
2S R 3E, Sec 8B Tax Lot 1101)*

Dear Mr. Rhodes:

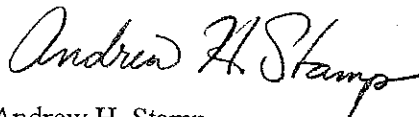
I represent Franklin R. Hanks and Marlene A. Hanks and am submitting this written demand for just compensation on their behalf pursuant to Measure 37. We understand that the Clackamas County will be processing the claim for the City, and therefore, we have directed a copy of this claim to the County. We have enclosed a check to the County in the amount of \$750.00, as required by section 7 of Ord. 2005-02. Accompanying this Measure 37 demand are corresponding claims submitted to the State of Oregon (via DAS and LCDC), Clackamas County, and Metro.

If the City believes that there is an alternative development scenario that would result in more high density urban development and would better meet the City's future development goals and objectives, we would be happy to discuss other options for this site.

We thank you and your staff for your attention to this matter. Please let me hear from you at your earliest convenience.

Sincerely,

ANDREW H. STAMP, P.C.



Andrew H. Stamp

AHS/ahs
Enclosures
cc: Client

Andrew H. Stamp, P.C.
Attorney at Law
Kruse-Mercantile Professional Offices, Suite 9
4248 Galewood St.
Lake Oswego, OR 97035

Tele: 503.675.4318
Fax: 503.675.4319

andrewstamp@comcast.net

JULY 8, 2005

VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED

DAS -- State Services Division
Risk Management -- Measure 37 Unit
1225 Ferry Street SE, U160
Salem, OR 97301-4292

Re: *Measure 37 Claim for Franklin R. and Marlene A. Hanks for
Real Property Located in Clackamas County, Commonly Known as
16000 SE Keller Road, Clackamas, OR, 97015 (T 2S, R 3E, Sec. 08, Tax
Lot 101, and T 2S R 3E, Sec 8B Tax Lot 1101)*

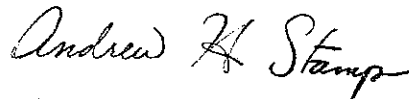
To whom it may concern:

I represent Franklin R. Hanks and Marlene A. Hanks, who own the above-described property. See Map at Exhibit 1. I am submitting this written demand for just compensation on their behalf pursuant to Measure 37. See Exhibit 8 (Authorization to File Measure 37 Claim on Owner's Behalf). We have also submitted a corresponding claim to Clackamas County, the City of Damascus and Metro. The pertinent information needed to resolve this claim is included in the enclosed letter to the county.

Thank you for your attention to this matter.

Sincerely,

ANDREW H. STAMP, P.C.



Andrew H. Stamp

AHS:ahs
Enclosures
cc: Client

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 26-lot Subdivision

LEGAL DESCRIPTION: T15 R3E SECTION 8 TAX LOT(S) 101
T25 R3E SECTION 8B TAX LOT(S) 1101

(ADDITIONAL) _____

NAME OF CONTACT PERSON _____

MAILING ADDRESS _____

CITY Lake Oswego STATE OR ZIP 97035

PHONE _____; CELL PHONE _____

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 Marlene A. Hanks

SIGNATURE Marlene A. Hanks

ADDRESS 16000 SE KELLER

CITY Clackamas STATE OR ZIP 97015

PHONE call via Atty CELL PHONE NA

OWNER 2 Franklin R. Hanks

SIGNATURE Marlene A. Hanks, Attorney in fact for Franklin R. Hanks

ADDRESS 16000 SE KELLER

CITY Clackamas STATE OR ZIP 97015

PHONE call via Atty CELL PHONE NA

OWNER 3 _____

SIGNATURE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____ CELL PHONE _____

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.

See narrative

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

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.

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

- _____
5. **Please describe how this regulation(s) restricts the use of the property and reduces the property's fair market 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)? _____

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.]*

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

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: <i>Moulene A. Hanks</i>	Day Time Phone #: <i>call via Atty</i>
Address: <i>16000 SE Keller</i>	
City: <i>Clackamas</i>	State: <i>OR</i>
	Zip: <i>97015</i>

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: <i>Andrew H. Stamp</i>	Day Time Phone #: <i>503.675.4318</i>
Address: <i>Kruse - Mercantile Professional offices, Suite 9, 4248 Galewood St</i>	
City: <i>Lake Oswego</i>	State: <i>OR</i>
	Zip: <i>97035</i>

Must attach a written notarized statement signed by the owner(s) or a Power of Attorney properly authorizing submittal of this claim. Attachment: Yes No

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>Franklin R. Henks</i>		Day Time Phone #: <i>call via AKey</i>	
Address: <i>16000 SE Keller</i>			
City: <i>Clackamas</i>		State: <i>OR</i>	Zip: <i>97015</i>
Describe Interest in Property: <i>tenent in the entiracty</i>			

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: <small>if applicable</small>		16000 SE Keller		City: NA	
County:	Clackamas	State:	OR	Zip:	97015
Tax Lot #:		County Tax Assessor's Map Reference # & Date:			
Township:					
Range:					
Section:					
Other Legal Description Information:					
Parcel 1 : T2S R3E Sec 8B Tax Lot 1101					
Parcel 2 : T2S R3E Sec 8 Tax lot 101					

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: <small>(list all attachments)</small>	See Exhibit 1
Date of Acquisition of Property:	March 15, 1971
Nature & Scope of Ownership of Property: <small>Attachment if Applicable <input type="checkbox"/></small>	Tenants in the entirety / See simple
All Encroachments, Easements, etc. (see OAR 125-145-0040 (8) for further information) <small>Attachment if Applicable <input checked="" type="checkbox"/></small>	See First American Title's "Measure 37 lot Book Service" dated June 21, 2005.

Section 6 INTENDED USE OF PROPERTY

What is the intended use of the property that is currently prohibited by state regulations? 26 lot Subdivision

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"/>	<i>See Letter to Clackamas County,</i>	Describe how this Land Use Law or Rule restricts the use of this property:
Law or Rule: Attachment if Applicable <input type="checkbox"/>	<i>dated July 8, 2005</i>	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"/>	<i>//</i>	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:
Law or Rule: Attachment if Applicable <input type="checkbox"/>		Date of Effect:

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 \$:	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:
Fair Market Value Reduction Amount \$:	Law or Rule	Basis of Evaluation:

Section 10 AUTHORITY TO ENTER PROPERTY

See Measure 37 Owner Consent Form, Exh 8.

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:	Signature:
<i>Interest in Property:</i>	
Printed Name:	Signature:
<i>Interest in Property:</i>	
Printed Name:	Signature:
<i>Interest in Property:</i>	
Printed Name:	Signature:
<i>Interest in Property:</i>	
Printed Name:	Signature:
<i>Interest in Property:</i>	
Printed Name:	Signature:
<i>Interest in Property:</i>	

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 type="checkbox"/> No <input checked="" type="checkbox"/>
Affidavits: Yes <input type="checkbox"/> No <input type="checkbox"/>	Tax Map(s) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Tax Deferrals: Yes <input type="checkbox"/> No <input 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)	
<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 checked="" type="checkbox"/> Date: <i>July 2005</i>	To Whom: <i>Clackamas County</i>
Yes <input checked="" type="checkbox"/> Date: <i>r</i>	To Whom: <i>Metro</i>
Yes <input checked="" type="checkbox"/> Date: <i>"</i>	To Whom: <i>City of Damascus</i>
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.)

Signature Andrew H. Stamp Date July 8, 2005

Signature _____ Date / /

Signature _____ Date / /

Signature _____ Date / /

Signature _____ Date / /

Signature _____ Date / /

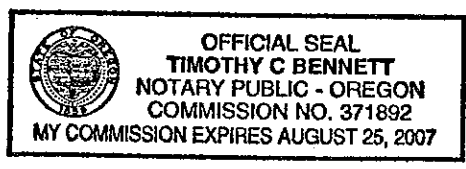
State of Oregon
County of Clatsop

Signed and sworn to before me on July 8, 2005 by Andrew H. Stamp
(month) - day - year

[Signature]
(Notary Public - State of Oregon)

Notary Seal

My commission expires: 8/25/2007





First American

RESOLUTION NO. 06-3710

Attachment 4: COO Report

First American Title Insurance Company of Oregon

1700 SW Fourth Ave, Ste 102

Portland, OR 97201

Phn - (503) 222-3651

Fax - (503) 790-7858

MULTNOMAH COUNTY TITLE UNIT

FAX (503) 790-7858

Title Officer:

(503) 222-3651

MEASURE 37 LOT BOOK SERVICE

Heartland Development LLC
10225 SW Redwing Terrace
Beaverton, OR 97007-8403

Order No.: 7019-607282

June 21, 2005

Attn: Mike Hanks

Phone No.: (503) 590-8600 - Fax No.: (503) 590-8640

Email: michaelhanks@nwdh.com

Re:

Fee: \$500.00

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

The land referred to in this report is described in Exhibit A attached hereto.

and as of June 6, 2005 at 8:00 a.m.

We find that the last deed of record runs to

Franklin R. Hanks and Marlene A. Hanks, as tenants by the entirety;

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

1. 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.
(Affects Parcel I)
2. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
(Affects Parcel II)

3. An easement reserved in a deed, including the terms and provisions thereof;
 Recorded: March 18, 1969 as Fee No. 69 4413
 From: Knutz Farstvedt and Cora M. Farstvedt, husband and wife
 To: Franklin R. Hanks and Marlen A. Hanks
 For: Road Purposes
 (Affects Parcel II)

4. Easement, including terms and provisions contained therein:
 Recording Information: December 28, 1972 as Fee No. 72 39212
 In Favor of: Portland General Electric Company, an Oregon corporation
 For: Underground electric power lines
 (Affects Parcel II)

5. Reciprocal Easement Agreement including the terms and provisions thereof:
 Dated: October 24, 2000
 Recorded: October 25, 2000 as Fee No. 2000-069536
 Executed by: Robert L. Rayson and Tisha C. Rayson, husband and wife and
 Franklin R. Hanks and Marlene A. Hanks, husband and wife
 (Affects Parcel II)

6. Easement including the terms and provisions thereof:
 Recorded: January 5, 2001 as Fee No. 2001-000894
 Executed by: Burton D. Andersen and Rebecca G. Andersen and Franklin R.
 Hanks and Marlene A. Hanks
 (Affects Parcel II)

7. Easement including the terms and provisions thereof:
 Dated: June 22, 2000
 Recorded: January 5, 2001 as Fee No. 2001-000895
 Executed by: John M. Robertson and Marla K. Robertson and Franklin R.
 Hanks and Marlene A. Hanks
 (Affects Parcel II)

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.
Contract	March 18, 1969			69 4413
Underground Distribution Line Easement	December 28, 1972			72 39212

C. Listed Documents:

Document	Recorded	Instrument No. or Book	Page	Fee No.
Modification of Contract	October 20, 1975	75 30909		

C. Listed Documents:

Document	Recorded	Instrument No. or Book	Page	Fee No.
Warranty Deed	September 1, 1977	77 35477		

C. Listed Documents:

Document	Recorded	Instrument No. or Book	Page	Fee No.
Reciprocal Easement Agreement	October 25, 2000	2000-069536		

C. Listed Documents:

Document	Recorded	Instrument No. or Book	Page	Fee No.
Easement	January 5, 2001	2001-000894		

C. Listed Documents:

Document	Recorded	Instrument No. or Book	Page	Fee No.
Easement	January 5, 2001	2001-000895		

C. Listed Documents:

Document	Recorded	Instrument No. or Book	Page	Fee No.
State of Oregon Well Ownership Information Form	January 23, 2001	2001-004862		

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.

Exhibit "A"

Real property in the County of Clackamas, State of Oregon, described as follows:

Parcel I:

Parcel 2, PARTITION PLAT NO. 2002-058, in the County of Clackamas and State of Oregon.

TOGETHER WITH an easement for ingress and egress over Parcel 1 as depicted on the recorded plat.

Parcel II:

Beginning at a point 80 rods East of the one-quarter section corner between Sections 7 and 8, Township 2 South, Range 3 East, of the Willamette Meridian in the County of Clackamas and State of Oregon, which is a stone firmly set in the ground; thence North 69 18/25 rods to the center of the County Road; thence North 71°50' East 23 rods; thence South 76 2/5 rods; thence West 22 rods to the point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of the public roads.

FURTHER EXCEPTING THEREFROM that part described as follows:

Beginning at the Northwest corner of the hereinabove described tract; thence South along the West line thereof 265.27 feet; thence North 89°47'40" East 302.21 feet; thence North to an intersection with the South line of Market Road No. 16; thence Southwesterly along said road, 319.44 feet to the point of beginning.

Tax Parcel Number: 00617611 and 05006313



First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

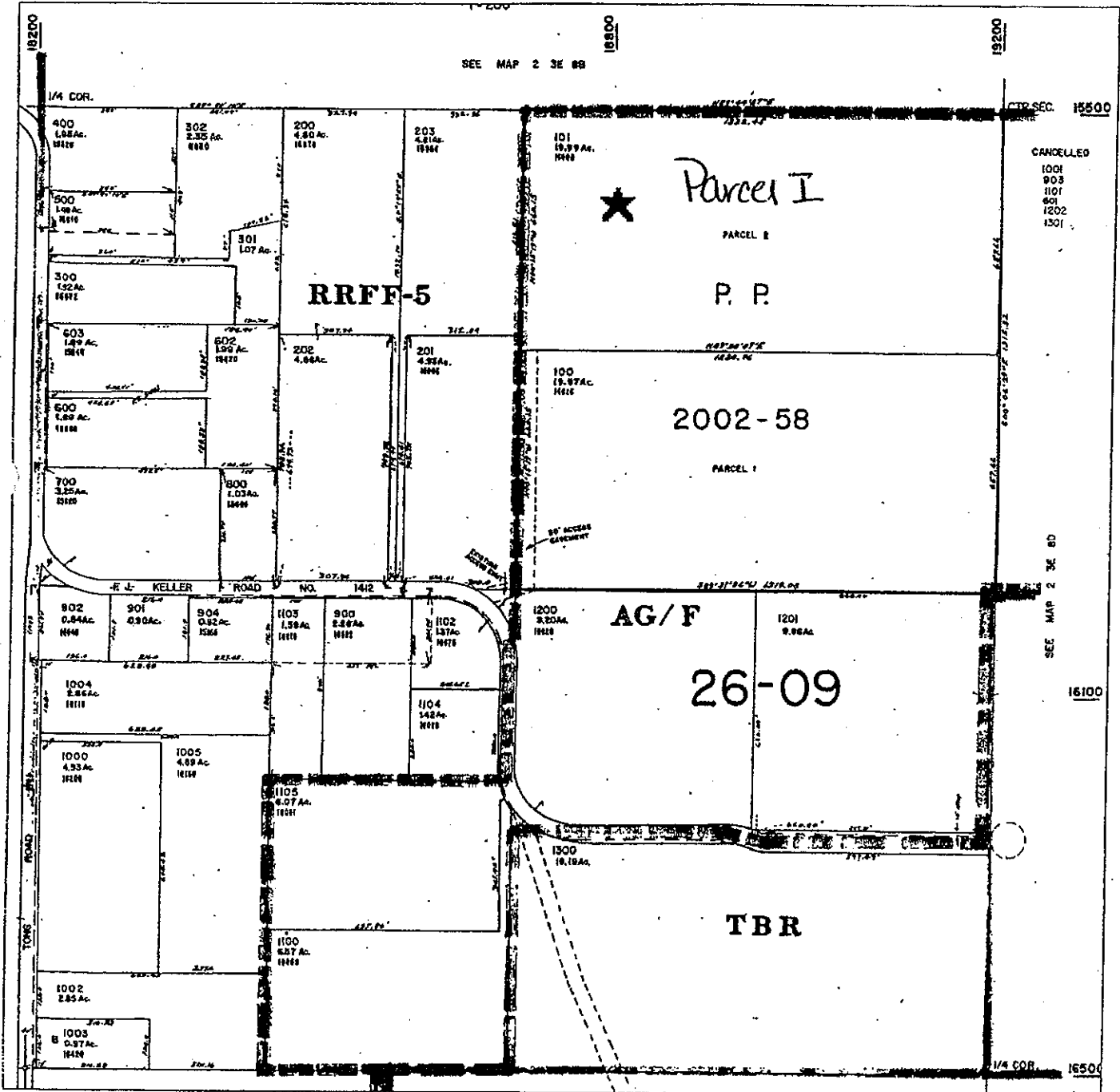
1700 SW Fourth Avenue Portland, OR 97201-5512

Phone: (503) 222-3651

RESOLUTION NO. 06-3710
Attachment 4: COO Report

*This map is provided as a convenience in locating property
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey*

Reference Parcel Number 23E08C 00101





First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

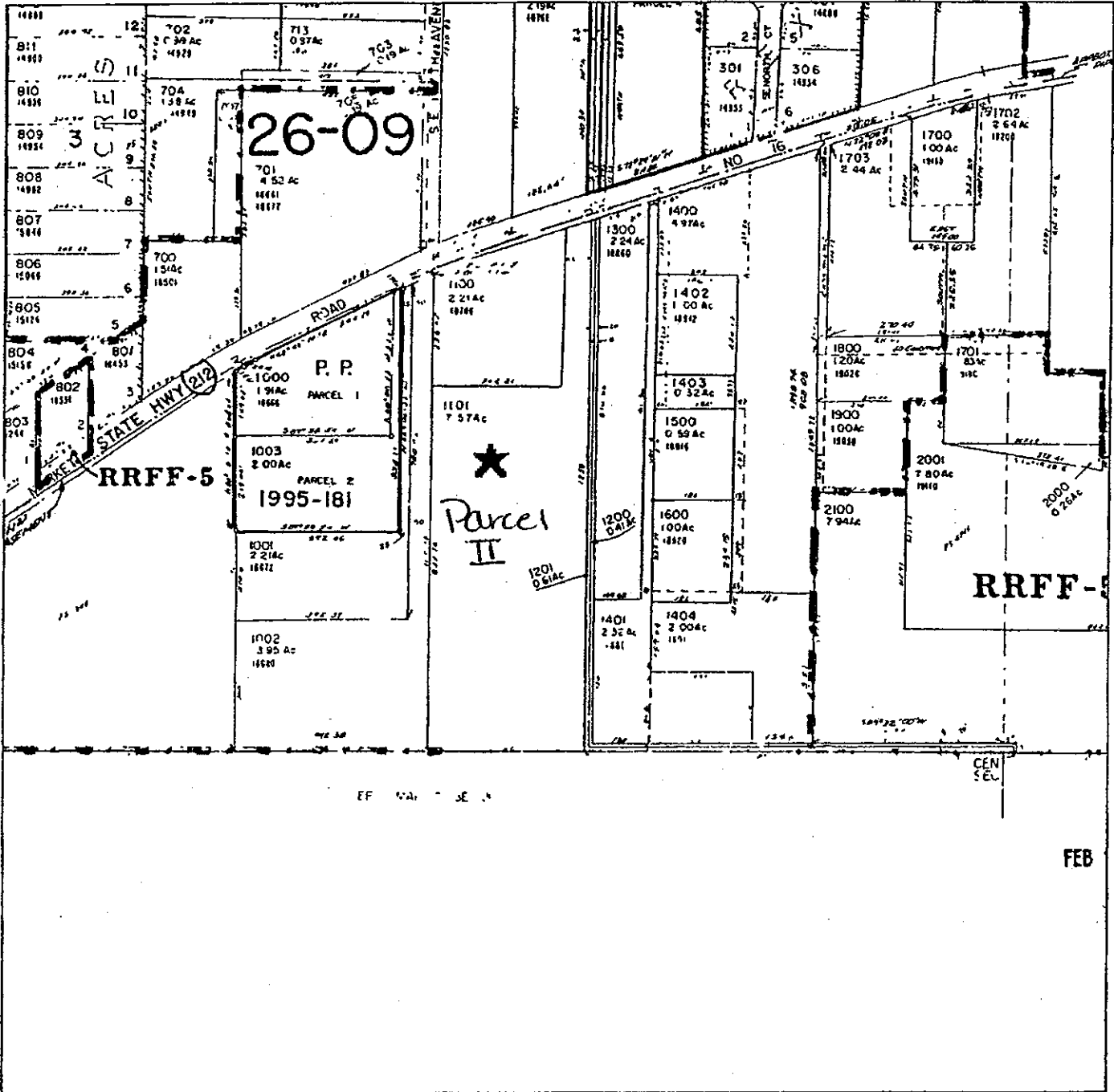
1700 SW Fourth Avenue Portland, OR 97201-5512

Phone: (503) 222-3651

RESOLUTION NO. 06-3710
Attachment 4: COO Report

*This map is provided as a convenience in locating property
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey*

Reference Parcel Number 23E08B 01101



7850

CONTRACT

THIS CONTRACT made this *30th* day of September, 1958,
between ERNIE FARSTVEDT and CORA M. FARSTVEDT, husband and wife,
hereinafter called the Seller and FRANKLIN R. HANES and MARLENE
A. HANES, husband and wife, hereinafter called the Buyer.

WITNESSETH:

That in consideration of the stipulations herein contain-
ed and the payments to be made as hereinafter specified, the seller
hereby agrees to sell to the buyer and buyer hereby agrees to
purchase from the seller the following real estate situate in the
County of Clackamas, State of Oregon, to-wit:

So much of seller's present holdings of 50 acres as will
constitute 47 acres net, plus an area for road purposes, 41 feet
in width from the east line of grantor's retained three acres,
which three acres retained shall be those three acres in the north
ten acres of grantor's present holdings. The buyer agrees to cause
a survey of the 47 acres he is purchasing, plus the road to be locat-
ed on the east line of grantor's retained three acres at buyer's
expense and to furnish for the purposes of supplementing this
contract the legal description resulting from such survey and seller
shall, if he so desires, cause a survey of his retained three acres,
more or less to be made at his expense.

The purchase price of the property is the sum of \$30,000.00,
on account of which \$5,000.00 is paid on the execution hereof (the
receipt of which is hereby acknowledged by the seller; the buyer
agrees to pay the remainder of said purchase price to the order of
the seller or seller's assignee in annual payments of not less than
\$5,000.00 per annum including interest at the rate of 6 per cent per
annum on the unpaid balance, the first of which payments shall be

paid on or before October 1, 1968, and like payment of not less than \$5,000.00 per annum including interest at the rate of 6 per cent per annum on the unpaid balance on October 1 of each succeeding year thereafter until the full sum of principal and interest has been paid in full. All of said purchase price may be paid at any time after the calendar year 1968 and all deferred balances of said purchase price shall bear interest at the rate of 6 per cent per annum from date of contract until paid, interest to be paid annually and is included in the minimum annual payments above required.

Taxes on the premises for the current tax year shall be pro-rated between the parties hereto as of the date of this contract.

Buyer shall have the privilege commencing in the calendar year 1969 to receive from seller a warranty deed from seller warranting title in seller free and clear of encumbrance to the date of this contract by paying to seller the sum of \$1,200.00 for each acre of property to which a deed is requested, which sum shall be in addition to the annual payments provided herein and which said payments shall include interest unpaid on the balance of the purchase price to such date of payment. The cost of preparation of each of said deeds and all costs and charges incidental thereto shall be borne by buyer including but not limited to escrow charges, if any, recording, costs of preparing legal descriptions and other like charges and expenses.

If requested by buyer, seller will place in escrow, with appropriate escrow instructions in accordance with the foregoing, individual deeds covering lots or individual metes and bounds tracts included in the premises. Buyer shall be free to select any title insurance company or bank in the State of Oregon as escrow agent and shall bear all costs relative to the escrow. If the buyer shall request that deeds covering lots or individual metes and bounds tracts be placed in escrow with a corporate escrow agent, the deposit of the

67-4413

THIS CONTRACT OCCURRED AT THE OFFICE OF THE COUNTY CLERK OF THE COUNTY OF LOS ANGELES, CALIFORNIA, ON THE 15TH DAY OF OCTOBER, 1960.

deed to the entire premises mentioned on page 3 hereof shall not be made, or if made shall be returned to seller upon the delivery of said deeds to the corporate escrow agent.

Buyer shall be entitled to possession of said lands on closing date and may retain said possession so long as he is not in default under the terms of this contract.

Buyer agrees that he will keep the premises free from mechanic's and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and improvement or service district liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due. If the buyer shall fail to pay any such liens, costs, water rents, taxes or other charges referred to in this paragraph, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

67-4413

It is agreed between the parties hereto that buyer shall not tender to seller, nor shall seller be required to accept, as payment under this contract during the calendar year 1960 more than 20 per cent of the purchase price, including the down payment above provided.

Seller shall furnish at his expense a purchaser's title policy in the amount of \$50,000.00 within ten days of the date of contract, insuring buyer against loss or damage sustained by him by reason of the unmarketability of vendor's title, or liens or encumbrances thereon, excepting matters contained in usual printed exceptions in such title insurance policies, easements, and conditions

...of the...
...of the...
...of the...

Attached

and restrictions of record, if any. Such title policy shall be in full satisfaction of seller's obligation to furnish evidence of marketable title.

In the event that buyer shall fail to perform any of the terms of this agreement, time of payment and performance being of the essence, seller shall at his option, subject to the requirements of notice as herein provided have the following rights:

- (a) To declare the full unpaid balance of the purchase price immediately due and payable, and
- (b) To foreclose this contract by suit in equity, or
- (c) To specifically enforce the terms of this agreement by suit in equity.

Buyer shall not be deemed in default for failure to perform any covenant or condition of this contract other than the failure to make payments as provided for herein, until notice of said default has been given by seller to buyer and buyer shall fail to remedy said default within ten days after the giving of the notice. Notice for this purpose shall be deemed to have been given by deposit in the mail of a certified letter containing said notice and addressed to buyer at Rt. 2, Box 462B, Spring, Oregon, 97009.

67-4413

If buyer shall fail to make payment as herein provided and such failure shall continue for more than ten days after the payment becomes due, buyer shall be deemed in default and seller shall not be obligated to give notice to buyer of a declaration of said default.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision herein

- 4 -
4

any '... of ...
any '... of ...

be held to be a waiver of any succeeding breach of any such provision,
or as a waiver of the provision itself.

In case suit or action is instituted to foreclose this
contract or to enforce any of the provisions hereof, each party
agrees to pay such sum as the trial court may adjudge reasonable as
attorney's fees to be allowed the prevailing party in said suit or
action and, if an appeal is taken from any judgment or decree of
such trial court, the parties further promise to pay such sum as the
appellate court shall adjudge reasonable as the attorney's fees
for such prevailing party on such appeal.

Sellers agree to place a warranty deed to the premises free
and clear of encumbrances and liens to the date of this contract,
excepting assessments, conditions, and restrictions of record, if
any, with Robert L. Burns, attorney at law, as escrow agent upon
instructions that if the death of both sellers occurs before this
contract is paid in full that buyer shall have the right to have the
said deed delivered to him on payment of the unpaid balance of
the contract.

Upon request by buyer, seller will execute any and all
documents required to cause the property to be platted. All
costs of such platting and of the preparation of such documents
shall be borne by the buyer.

The parties hereto agree that this Contract shall be
paid in full within eight years from October 1, 1968, the final
unpaid balance being due if not paid before, on October 1, 1976.

IN WITNESS WHEREOF, said parties have hereunto set their

69 - 4413

5

hands and seals in duplicate on this, the day and year first above written.

Kaute Farstvedt
Kaute Farstvedt

Cora M. Farstvedt
Cora M. Farstvedt

Franklin P. Hanks
Franklin P. Hanks

Marlene A. Hanks
Marlene A. Hanks

STATE OF OREGON }
County of Multnomah } ss.

69-4413

BE IT REMEMBERED, That on this *30th* day of September, 1968, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Kaute Farstvedt and Cora M. Farstvedt, husband and wife and Franklin P. Hanks and Marlene A. Hanks, husband and wife, known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same free and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Robert L. Bowers
Notary Public for Oregon
My Commission expires: 11/14/68



6

EXCEPTION TO THE DEED OF THE STATE OF OREGON
AND THE COUNTY OF CLATSOP

The attached legal is the exception
to the 60 acres
Lanks & Furstedt

A tract of land in the NW 1/4 of section 8 T22 R3E W.M., Clackamas County, Oregon
more particularly described as follows:

Beginning at the 1/4 corner on the west line of section 8 T22 R3E W.M.; thence
N89°-47'-40"E 1320 ft more or less to a 1/2" iron pipe set for the NW corner of NW 1/4
of the NW 1/4 of said section 8; thence north 839.78 ft along the north-south center
of the NW 1/4 of section 8 to the true point of beginning; thence north 278.05 ft
more or less to the center line of Market Road #15; thence 87.30 ft along the arc
of a 954.93 ft radius curve to the right through a central angle of 5°-13'-40",
the long of which bears N69°-28'-35"E; thence N72°-05'-25"E 295.98 ft along said
center line; thence south 418.30 ft; thence S89°-47'-40"W 363.21 ft to the true of
beginning. Containing 3 acres more or less.

69-4413

STATE OF OREGON,
County of Clackamas,

I, George D. Poppo, County Clerk, Ex-Officio
Recorder of Conveyances and Ex-Officio Clerk
of the Circuit Court of the State of Oregon, for
the County of Clackamas, do hereby certify that
the within instrument of writing was received for
and recorded in the

DEED

1962 MAR 18 PM 9 08 Clack County 11

RECORDED OF
On Page
W. H. Poppo
County Clerk
Deputy

Knute Furstedt
Rt 1 Box 177
Clackamas, Ore.
97015

UNDERGROUND DISTRIBUTION LINE EASEMENT

KNOW ALL MEN BY THESE PRESENTS, That FRANKLIN P. HANKS & MARLENE A. HANKS, husband and wife; KNUTE FARSTVEDT (hereinafter called "the Grantors," whether one or more than one), for and in consideration of the payment of the sum of one and no/100ths Dollars (\$ 1.00), the receipt of which is hereby acknowledged, hereby grant, sell and convey to Fortland General Electric Company, an Oregon corporation,

(hereinafter called "the Grantee," whether one or more than one), its successors and assigns, a perpetual easement and right of way under and across the following described parcel of land situated in Clackamas County, Oregon, being a strip of land ten (10) feet in width, extending five (5) feet on each side of a center line more particularly described as follows:

Beginning in Section 8, Township 2 South, Range 3 East, Willamette Meridian at a point in the North line of the Northeast one-quarter of the Southwest one-quarter of said Section 8, said point being West 343.6 feet from the Northeast corner of said Northeast one-quarter; Running thence South 18° 57' West 141.4 feet; Thence South 14° 50' West 105.3 feet; Thence South 22° 15' West 57.7 feet; Thence South 33° 03' West 50.5 feet; Thence South 36° 13' West 72.3 feet; Thence South 30° 05' West 144.7 feet; Thence South 4° 30' West 61.7 feet; Thence South 9° 26' West 89.4 feet; Thence South 2° 03' East 44.3 feet; Thence South 39° 48' East 31.3 feet; Thence South 63° 11' East 62.6 feet; Thence South 49° 59' East 156 feet; Thence South 6° 47' West 13.7 feet; Thence South 31° 59' West 16.7 feet; Thence South 42° 35' West 13.4 feet; Thence North 65° 41' West 22.8 feet; Thence South 60° 24' West 24.5 feet.

TO HAVE AND TO HOLD the above described easement and right of way unto the Grantee, its successors and assigns for the following purposes, namely: the perpetual right to enter upon and to install, maintain, repair, rebuild, operate and patrol underground electric power lines and appurtenances, and also including, but not limited to, the right to install surface or subsurface transformers, surface mounted connection boxes and meter cabinets and also temporary overhead utility service facilities during construction.

Grantors shall have the right to use the lands subject to the above described easement for all purposes not inconsistent with the uses and purposes herein set forth, except Grantors shall not build or erect any structure upon the right of way without the prior written consent of the Grantee.

If the Grantee, its successors and assigns, shall fail to use said right of way for the purposes above mentioned for a continuous period of five years after installation of said underground electric power lines, then and in that event this right of way and easement shall terminate and all rights and privileges granted hereunder shall revert to the Grantors, their heirs and assigns.

The Grantors hereby warrant that they are possessed of a marketable title to the property covered by this easement, and have the right to grant the same.

The Grantors, for themselves and their heirs and assigns, covenant to and with the Grantee, its successors and assigns, that the Grantee, its successors and assigns, shall peaceably enjoy the rights and privileges herein granted.

IN WITNESS WHEREOF, the Grantors have caused this easement to be executed this 30 day of October, 1972

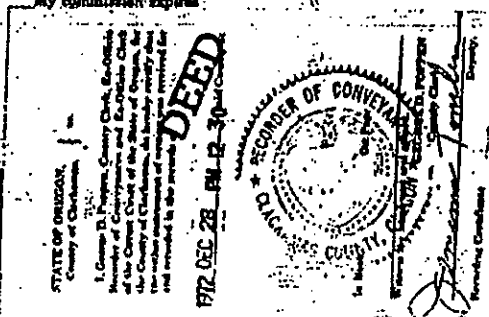
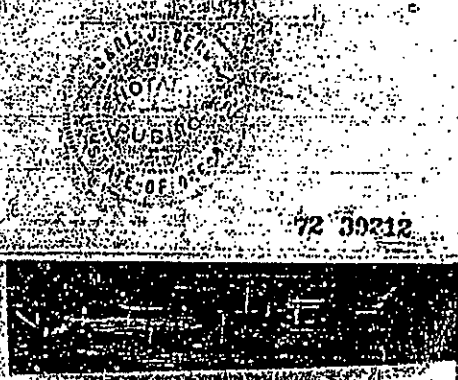
Knute Farstvedt (SEAL)
Franklin P. Hanks (SEAL)
Marlene A. Hanks (SEAL)

STATE OF OREGON
County of Clackamas
October 30, 1972

Personally appeared the above named Knute Farstvedt, Franklin P. Hanks and Marlene A. Hanks

and acknowledged the foregoing instrument to be their voluntary act, before me:

Carl J. Berg
Notary Public for Oregon
November 19, 1974
My commission expires



SEAL DOCUMENT
RECORDED, REC. 2, 1/22/73, P. M. GEORGE D. PORTER, County Clerk

3 00-069536

10-25-00

Original
10
11
25
SP

Return to MARLENE HANKS
16000 S.E. Keller
CLACKAMAS, ORE. 97015

RECIPROCAL EASEMENT AGREEMENT

This Reciprocal Easement Agreement made and entered into this 24 day of October, 2000, by and between Robert L. Rayson and Tisha C. Rayson, husband and wife, hereinafter called the "First Party" and Franklin R. Hanks and Marlene A. Hanks, husband and wife, hereinafter called the "Second Party,"

W I T N E S S E T H

Whereas, the First Party is the record owner of the real property in Clackamas County, Oregon, described in Exhibit "A" attached hereto; and

Whereas, the Second Party is the record owner of the real property in Clackamas County, Oregon, described in Exhibit "B" attached hereto; and

Whereas, each party has agreed to give and grant to the other party an easement on and across their respective properties for the benefit of the property of the other, and which easements are intended to run with the land and bind the successors and assigns of each of them,

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereinafter set forth, it is agreed:

1. First Party hereby grants, assigns and sets over unto the Second Party an easement for ingress, egress and public utilities, on and across the property of the First Party, more particularly described as follows:

A tract of land located in the Southwest quarter of Section 8, Township 2 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, described as follows:

Beginning at the Southeast corner of that tract of land described in Document No. 87-57867, Clackamas County Deed Records, thence westerly along the South line of said tract, South 89° 32' 31" West 93.50 feet to a point on the Northeast right-of-way line of P.J. Keller Road, County Road No. 1412; thence along the Northeast right-of-way line of said road with a curve to the left having a radius of 210.99 feet through a central angle of 02° 19' 41", an arc length of 8.57 feet (chord bears north 61° 00' 38" West 8.57 feet) to a point; thence North 79° 33' 32" East 102.60 feet to a point on the West line of said tract which is 22 feet North of the Southeast corner of said tract; thence Southerly along the West line of said tract South 00° 15' 19" East 22.00 feet to the point of beginning.

2. The use of said easement by Second Party and their successors in ownership of the property described in Exhibit "B" shall be limited to the owners, occupants, guests and invitees of not more than three residences upon the property described in Exhibit "B."

3. In consideration of the grant of the foregoing easement by First Party to Second Party, Second Party hereby grants, assigns and sets over to First Party a reciprocal easement on and across the Southerly 620 feet of the East 25 feet of the West 43 feet of Second Party's property described in Exhibit "B," together with an easement 18 feet in length and 25 feet in width extending in an Easterly/Westerly direction connecting the property described in Exhibit "A" to said easement, for ingress and egress between First Party's said property to Keller Road. Second Party agrees to oil or asphalt the road presently located upon the North South extent of said easement within twelve months after the Certificate of Occupancy of the residence to be newly constructed upon the property described in Exhibit "B." **

SEE ADDENDUM ATTACHED HERETO AND MADE A PART HEREOF IN REGARD TO SAID PARAGRAPH 3.

4. Second Party shall plant a visual barrier of Arborvitae

Page 2 - RECIPROCAL EASEMENT AGREEMENT

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03, 101600, 1

3



immediately east of the fence line presently dividing the two properties, for a length of 200 feet. Second Party gives and grants to First Party access to the property described in Exhibit "B" for the purpose of planting additional Arborvitaes on and along the immediate East side of said fence, which First Party may but shall not be required to do; provided, if First Partys elect to extend said planting (a) the same shall be completed within 18 months from the time Second Party completes the original planting and (b) the Arborvitaes shall be a like product and installed in a similar manner to give the impression of one continuous line/installation of the product.

5. Maintenance of both of said easements and all costs and repair thereof shall be divided between the parties in proportion to their respective use.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed as of the date first set forth above.

Robert L. Rayson
Robert L. Rayson
Tisha C. Rayson
Tisha C. Rayson

Franklin R. Hanks *Marlene A. Hanks*
Franklin R. Hanks
Marlene A. Hanks
Marlene A. Hanks

STATE OF OREGON)
County of Clatsop) ss.

This instrument was acknowledged before me on October 19, 2000, by Robert L. Rayson and Tisha C. Rayson.

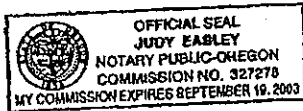


Patricia Cooper
Notary Public for Oregon

3 4

STATE OF OREGON)
County of Clackamas) ss.

This instrument was acknowledged before me on October 24,
2000, by Franklin R. Hanks and Marlene A. Hanks.



Judy Easley
Notary Public for Oregon

EXHIBIT A

A tract of land situated in the East one-half of the Northwest one-quarter of the Southwest one-quarter of Section 8, Township 2 South, Range 3 East of the Willamette Meridian, in Clackamas County, Oregon, described as follows:
Beginning at the Northwest corner of said legal subdivision; thence Easterly, along the North line thereof, 650.71 feet, more or less, to the Northeast corner thereof; thence Southerly, along the Easterly line of said legal subdivision, 620.0 feet, more or less, to a line which is parallel with the 703.72 feet Northerly of the South line of said legal subdivision, and the true point of beginning, thence Westerly, along said parallel line, 310.0 feet; thence Southerly, parallel with the Westerly line of said legal subdivision, 703.72 feet, to the South line of said legal subdivision; thence Easterly, along the South line of said legal subdivision, 310.0 feet to the Southeast corner thereof; thence Northerly, along the Easterly line of said legal subdivision, 703.72 feet, to the true point of beginning.

EXHIBIT B

The northeast one-quarter of the southwest one-quarter of Section 8, in T2S, R3E, of the W.M.
EXCEPTING from the above described tracts that portion lying within the boundaries of public roads.
FURTHER EXCEPTING THEREFROM that part described as follows:
Beginning at the Northwest corner of the hereinabove described tract; thence South, along the west line thereof 265.27 feet; thence North 89° 47' 40" East 302.21 feet; thence North to an intersection with the south line of Market Road No. 16; thence Southwesterly, along said road 319.44 feet to the beginning.

IN CONSIDERATION---Check No. 2742---KEY Bank
Check No. 174---CDIC

5

3. Addendum

Easement from Second party to the First party shall be for ingress/egress use by future residences. Use by existing residence (at the time of this agreement) shall be primary ingress/egress occasional use only.

PLEASE
INITIAL
PK
JCR

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RECORDED IN CLACKAMAS COUNTY
JOHN KAUFFMAN, COUNTY CLERK

2000-063536



\$46.00

DE - 1 - 2 TRISH
\$25.00 \$11.00 \$10.00

10/25/2000 10:58:11 AM

SCANNED

CLACKAMAS COUNTY RECORDING DEPT. CERTIFICATE PAGE



**This page must be included
if document is re-recorded.
Do Not remove from original document.**

RECORDED IN CLACKAMAS COUNTY
JOHN KAUFFMAN, COUNTY CLERK

2001 000004
RESOLUTION NO. 06-3710
Attachment 4: CCO Report

Between _____

AND _____

Addressing return to Name, Address, City, State, Zip _____
MARLENE A. HANKS
 16200 S.E. KELLER RD.
 CLACKAMAS, OREGON 97015



01/05/2001 01:34:38 PM

D-E Cnt=1 Str=1 ELIZABETH
\$10.00 \$11.00 \$10.00

SPACE RESERVED FOR RECORDER'S USE

book/reel/volume No. _____ on page _____
and/or as fee/file/instrument/microfilm/reception No. _____, Records of this County.

Witness my hand and seal of County affixed.

NAME _____ TITLE _____

By _____, Deputy.

THIS AGREEMENT made and entered into on _____, by and between **BURTON D. ANDERSEN & REBECCA G. ANDERSEN** hereinafter called the first party, and **FRANKLIN R. HANKS and MARLENE A. HANKS** hereinafter called the second party, WITNESSETH:

WHEREAS: The first party is the record owner of the following described real property in **CLACKAMAS** County, State of Oregon, to-wit: BEGINNING AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 77-35477, CLACKAMAS COUNTY DEED RECORDS; THENCE WITH THE SOUTH LINE OF SAID TRACT DESCRIBED IN DOCUMENT NO. 7735477 NORTH 89°31'36" East 50.00 FEET TO A POINT; THENCE THRU THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 98-63859, CLACKAMAS COUNTY DEED RECORDS SOUTH 71°48'07" WEST 52.56 FEET TO A POINT ON THE EAST LINE OF THAT TRACT DESCRIBED IN 96-34899, CLACKAMAS COUNTY DEED RECORDS; THENCE WITH THE SAID EAST LINE NORTH 00°15'19" WEST 16.00 FEET TO THE POINT OF BEGINNING.

and has the unrestricted right to grant the easement hereinafter described relative to the real estate.

NOW, THEREFORE, in view of the premises and in consideration of \$ _____ by the second party to the first party paid, the receipt of which is acknowledged by the first party, it is agreed:

The first party hereby grants, assigns and sets over to the second party an easement, to-wit: AN INGRESS-EGRESS & PUBLIC UTILITY EASEMENT FOR THE BENEFIT OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 77-35477, CLACKAMAS COUNTY DEED RECORDS ACROSS THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 98-63859, CLACKAMAS COUNTY DEED RECORDS (BURTON D. ANDERSEN & REBECCA G. ANDERSEN) LOCATED IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN CLACKAMAS COUNTY, OREGON

(Insert a full description of the nature and type of easement granted by the first party to the second party.)

(OVER)

19

The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate.

The second party agrees to save and hold the first party harmless from any and all claims of third parties arising from the second party's use of the rights herein granted.

The period of this easement shall be IN PERPETUITY, always subject, however, to the following specific conditions, restrictions and considerations: NONE.

If this easement is for a right of way over or across the real estate, the center line of the easement is described as follows:

and the second party's right of way shall be parallel with the center line and not more than _____ foot distant from either side thereof.

During the existence of this easement, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of (check one): the first party; the second party; both parties, share and share alike; both parties, with the first party responsible for _____% and the second party responsible for _____%. (If the last alternative is selected, the percentages allocated to each party should total 100.)

During the existence of this easement, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

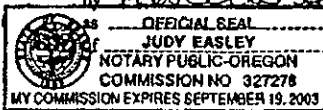
This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

Burton D. Andersen
Rebecca H. Andersen
FIRST PARTY

STATE OF OREGON, County of Clatsop) ss.
This instrument was acknowledged before me on 1-18-00
by Burton D. Andersen
This instrument was acknowledged before me on 1-18-00
by Rebecca H. Andersen



Judy Easley
Notary Public for Oregon
My commission expires 9-19-03

SECOND PARTY

STATE OF OREGON, County of _____) ss.
This instrument was acknowledged before me on _____
by _____
This instrument was acknowledged before me on _____
by _____
as _____
of _____

Notary Public for Oregon
My commission expires _____

2

3/3

RECORDED IN CLACKAMAS COUNTY
JOHN KAUFFMAN, COUNTY CLERK

2001-000895
RESOLUTION NO. 06-3710
Attachment COO Report



01/05/2001 01:34:33 PM

D-E Cnt=1 Slr=1 ELIZABETH
\$15.00 \$11.00 \$10.00

BOOK/PAGE/VOLUME NO. _____ on page _____
and/or as fee/file/instrument/microfilm/reception
No. _____ Records of this County.

Witness my hand and seal of County affixed.

By _____ Deputy.

EASEMENT

Between
John M. Robertson & Maria K. Robertson

And
Franklin R. Hanks & Marlene A. Hanks

Address: 16000 S.E. Keller Road
Clackamas, OR

Marlene A. Hanks

THIS AGREEMENT made and entered into on June 22, 2000, by and between John M. Robertson and Maria K. Robertson hereinafter called the first party, and Franklin R. Hanks and Marlene A. Hanks hereinafter called the second party, WITNESSETH:

WHEREAS: The first party is the record owner of the following described real property in Clackamas County, State of Oregon, to-wit: Document No. 06 - 34899, Clackamas County Deed Records located in the southwest quarter of Section 8, Township 2 south, range 3 east, Willamette Meridian Clackamas County Oregon

and has the unrestricted right to grant the easement hereinafter described relative to the real estate. NOW, THEREFORE, in view of the premises and in consideration of \$ 32,500.00 by the second party to the first party paid, the receipt of which is acknowledged by the first party, it is agreed:

The first party hereby grants, assigns and sets over to the second party an easement, to-wit:

DESCRIPTION OF
AN INGRESS-EGRESS & PUBLIC UTILITY EASEMENT
FOR THE BENEFIT OF THAT TRACT OF LAND DESCRIBED IN
DOCUMENT NO. 77-35477, CLACKAMAS COUNTY DEED RECORDS
ACROSS THAT TRACT OF LAND DESCRIBED IN
DOCUMENT NO. 96-34899, CLACKAMAS COUNTY DEED RECORDS
(JOHN M. ROBERTSON & MARLA K. ROBERTSON)
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 8,
TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN
CLACKAMAS COUNTY, OREGON

BEGINNING AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 77-35477, CLACKAMAS COUNTY DEED RECORDS; THENCE WITH THE WEST LINE OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 96-34899 SOUTH 00°15'19" EAST 20.17 FEET TO A POINT; THENCE THRU THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 96-34899, CLACKAMAS COUNTY DEED RECORDS SOUTH 7°44'28" WEST 34.47 FEET TO A POINT ON THE NORTHEAST RIGHT OF WAY LINE OF F.J. KELLER ROAD, COUNTY ROAD NO. 1412; THENCE WITH SAID NORTHEAST RIGHT OF WAY LINE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 210.99 FEET THRU A CENTRAL ANGLE OF 13°41'18", AN ARC DISTANCE OF 50.41 FEET (CHORD BEARS NORTH 33°00'06" WEST 30.29 FEET) TO A POINT ON THE SOUTH LINE OF THAT TRACT OF LAND DESCRIBED IN DOCUMENT NO. 87-37867, CLACKAMAS COUNTY DEED RECORDS; THENCE WITH SAID SOUTH LINE NORTH 89°32'31" EAST 91.30 FEET TO THE POINT OF BEGINNING.

(Insert a full description of the nature and type of easement granted by the first party to the second party.)
(OVER)

20

The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate. The second party agrees to save and hold the first party harmless from any and all claims of third parties arising from the second party's use of the rights herein granted.

The period of this easement shall be _____ always subject, however, to the following specific conditions, restrictions and considerations: Limited to access of no more than three single family dwelling units / residences using this for the purpose of ingress - egress and public utilities.

If this easement is for a right of way over or across the real estate, the center line of the easement is described as follows:

and the second party's right of way shall be parallel with the center line and not more than _____ feet distant from either side thereof.

During the existence of this easement, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of (check one): the first party; the second party; both parties, share and share alike; both parties, with the first party responsible for _____ % and the second party responsible for _____ %. (If the last alternative is selected, the percentages allocated to each party should total 100.)

During the existence of this easement, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF the parties have hereunto set their hands in duplicate on the day and year first written above.

John M. Robertson

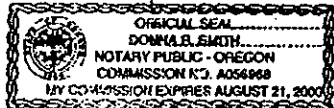
FIRST PARTY

STATE OF OREGON, County of Clackamas

This instrument was acknowledged before me on 7.12.00

by John M. Robertson

This instrument was acknowledged before me on 7.18.00



Donna B. Smith
Notary Public for Oregon
My commission expires 8.21.00

Maule K. Roberts

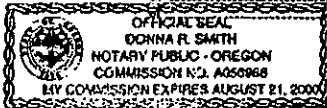
SECOND PARTY

STATE OF OREGON, County of Clackamas

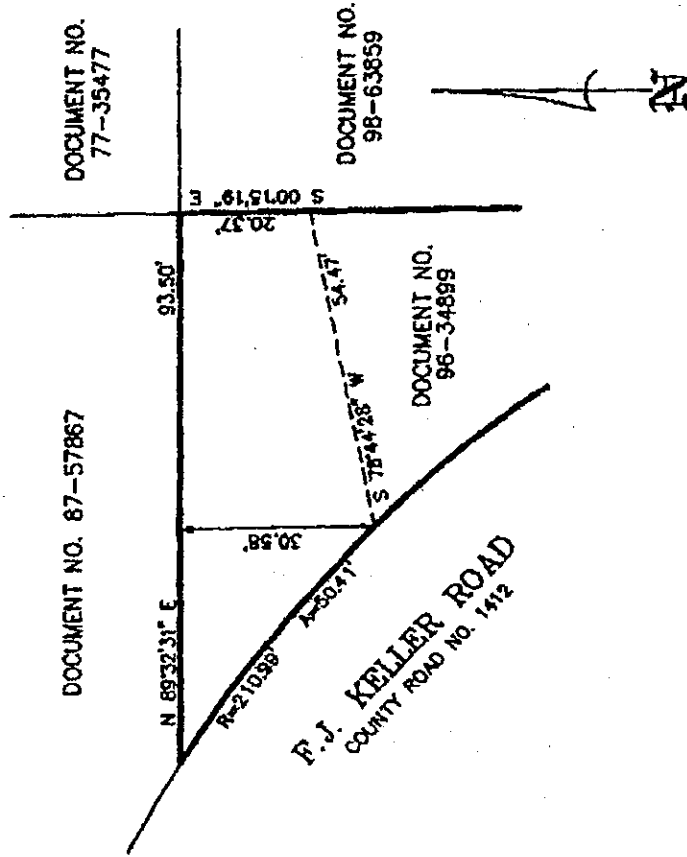
This instrument was acknowledged before me on 7.12.00

by Maule K. Roberts

This instrument was acknowledged before me on _____



Donna B. Smith
Notary Public for Oregon
My commission expires 8.21.00



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9 1 77

SEP 1 1977

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KNOW ALL MEN BY THESE PRESENTS, That **KNUTE FARSTVEDT**, an unmarried widower, hereinafter called the grantor, for the consideration hereinafter stated, to grantee paid by **FRANKLIN R. HANKS and MARLENE A. HANKS**, husband and wife, hereinafter called the grantees, does hereby grant, bargain, sell and carry unto the said grantees and grantees' heirs, successors and assigns, that certain real property, with the easements, burdens and appurtenances thereto belonging as hereinafter stated in the County of **Clackamas** and State of **Oregon**, described as follows, to-wit:

Beginning at a point 89 rods East of the one-quarter section Corner between Sections 7 and 8, in T.2 S., R.3E., of the W.M., which is a stone firmly set in the ground; thence North 69 18/25 rods to center of the County Road; thence North 71° 59' East 23 rods; thence South 76 2/5 rods; thence West 22 rods to the point of beginning.

ALSO the northeast one-quarter of the southwest one-quarter of section 8, in T.2 S., R.3 E., of the W. M., EXCEPTING from the above described tracts that portion lying within the boundaries of public roads.

FURTHER EXCEPTING THEREFROM that part described as follows:

Beginning at the Northwest corner of the hereinabove described tract; thence South, along the west line thereof 265.37 feet; thence North 99° 47' 40" East 302.21 feet; thence North to an intersection with the south line of Market Road No. 16; thence Southwesterly, along said road 319.91 feet to the point of beginning.

To Have and to hold the above unto the said grantees and grantees' heirs, successors and assigns forever. And said grantees hereby covenants to and with said grantor and grantor's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises free from all encumbrances except encumbrances created or permitted by grantee who has been in possession of the land under a contract from grantor; easements, conditions and restrictions of record, if any; those matters excluded from title policy 1-36-632 Pioneer National Title Insurance Company, which has been furnished to grantees

and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances. The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 59,000.00

In testimony whereof the grantor and grantees have hereunto set their hands and seals at the County of Clackamas, State of Oregon, this 15th day of March, 1977.

R.S.B.

Knute Farstvedt
R.S.B.
 Knute Farstvedt
 Knute Farstvedt

STATE OF OREGON, County of Multnomah
 Personally appeared the above named
 and acknowledged the foregoing instrument to be his voluntary act and deed.
 Before me: *Robert L. Burns*
 Notary Public for Oregon
 My commission expires 12-14-72

(OFFICIAL SEAL)

WARRANT / DEED
 KNUTE FARSTVEDT

TO
 FRANKLIN R. HANKS and
 MARLENE A. HANKS, h & w

Franklin R Hanks
Marion S & Keller
Clackamas Oregon
 97011

STATE OF OREGON
 77 SEP 1 03:10
 CLACKAMAS & MULTNOMAH
 77 36-177

OREGON CITY



First American Title Insurance Company of Oregon

RESOLUTION NO. 06-3710

Clackamas (OR)

Prepared For:	Prepared By: Anthony Falkner Customer Service Department 1700 SW Fourth Avenue - Portland, Oregon 97201-5512 Phone: (503) 222-3651 Fax: (503) 790-7872
---------------	--

OWNERSHIP INFORMATION	
Owner	Hanks Franklin R & Marlene A
CoOwner	
Site Address	*no Site Address*
Mail Address	16000 SE Keller Rd Clackamas Or 97015
Telephone	Owner: Tenant:
Ref Parcel Number	: 23E08B 01101
T: 02S	R: 03E S: 08 Q: 250
Parcel Number	: 00617611
County	: Clackamas (OR)

SALES AND LOAN INFORMATION			
Transferred	:	Loan Amount	:
Document #	: 77-35477	Lender	:
Sale Price	:	Loan Type	:
Deed Type	:	Interest Rate	:
% Owned	:	Vesting Type	:

PROPERTY DESCRIPTION	ASSESSMENT AND TAX INFORMATION
Map Page & Grid	MktLand : \$125,284
Census	MktStructure :
Improvement Type	MktTotal : \$125,284
Subdivision/Plat	M50 Assd Total : \$3,709
Neighborhood Cd	% Improved :
Land Use	04-05 Taxes : \$49.16
Legal	Exempt Amount :
	Exempt Type :
	Levy Code : 026009
	Millage Rate : 13.2522

PROPERTY CHARACTERISTICS		
Bedrooms	Building SF	Stories
Bathrooms	1st Floor SF	Garage SF
Fireplace	Above Ground SF	Lot Acres
Heat Type	Upper Finished SF	Lot SF
Interior Material:	Unfin Upper Story	Year Built
Exterior Finish	Upper Total SF	Year Appraised
Floor Cover	Finished SF	Appraisal Area
Roof Type	Basement Fin SF	School District
Roof Shape	Basement Unfin SF	Utility District
Foundation	Basement Total SF	



First American Title Insurance Company of Oregon

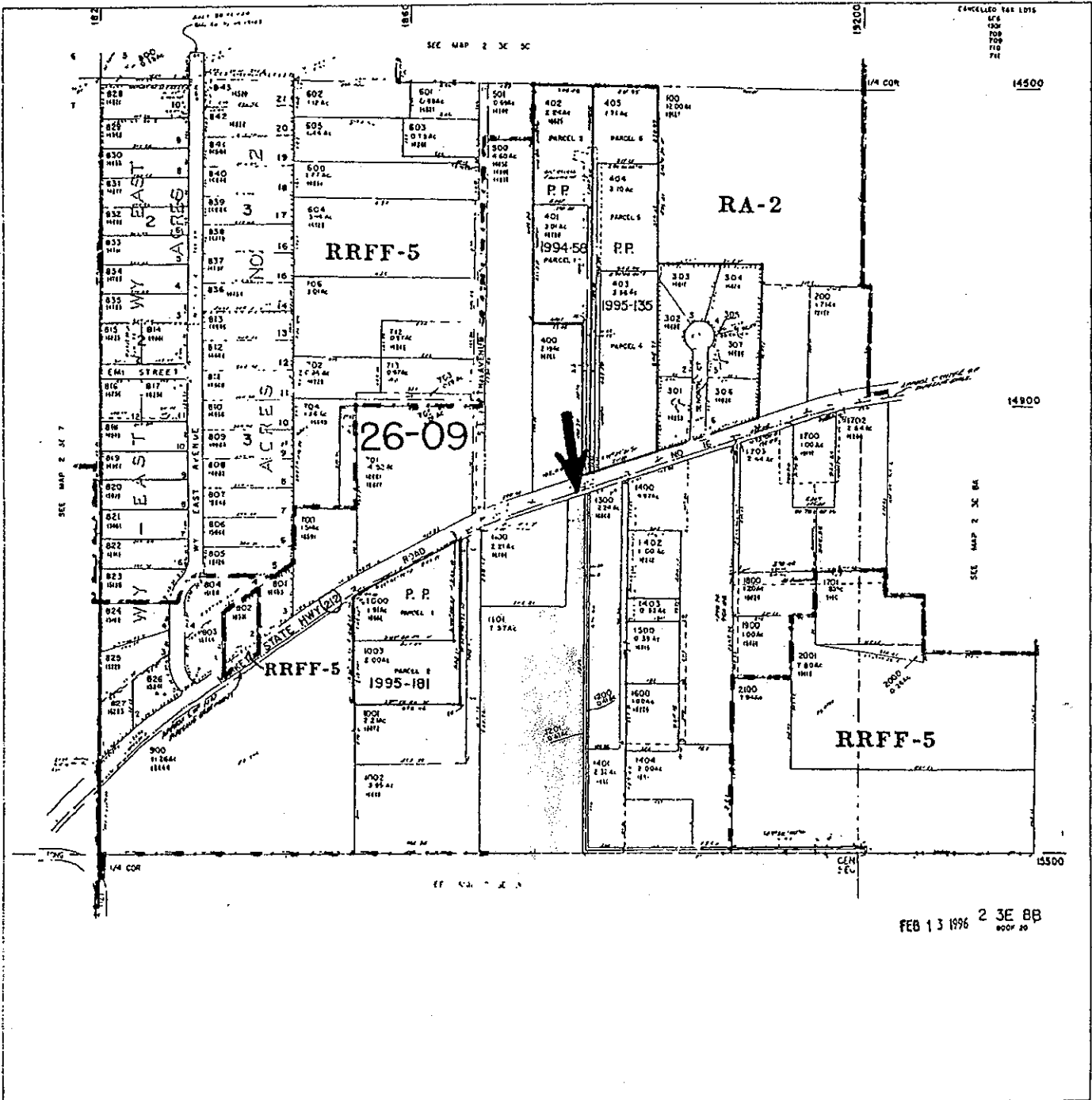
An assumed business name of TITLE INSURANCE COMPANY OF OREGON

1700 SW Fourth Avenue Portland, OR 97201-5512

Phone: (503) 222-3651

*This map is provided as a convenience in locating property
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey*

Reference Parcel Number 23E08B 01101





First American Title Insurance Company of Oregon

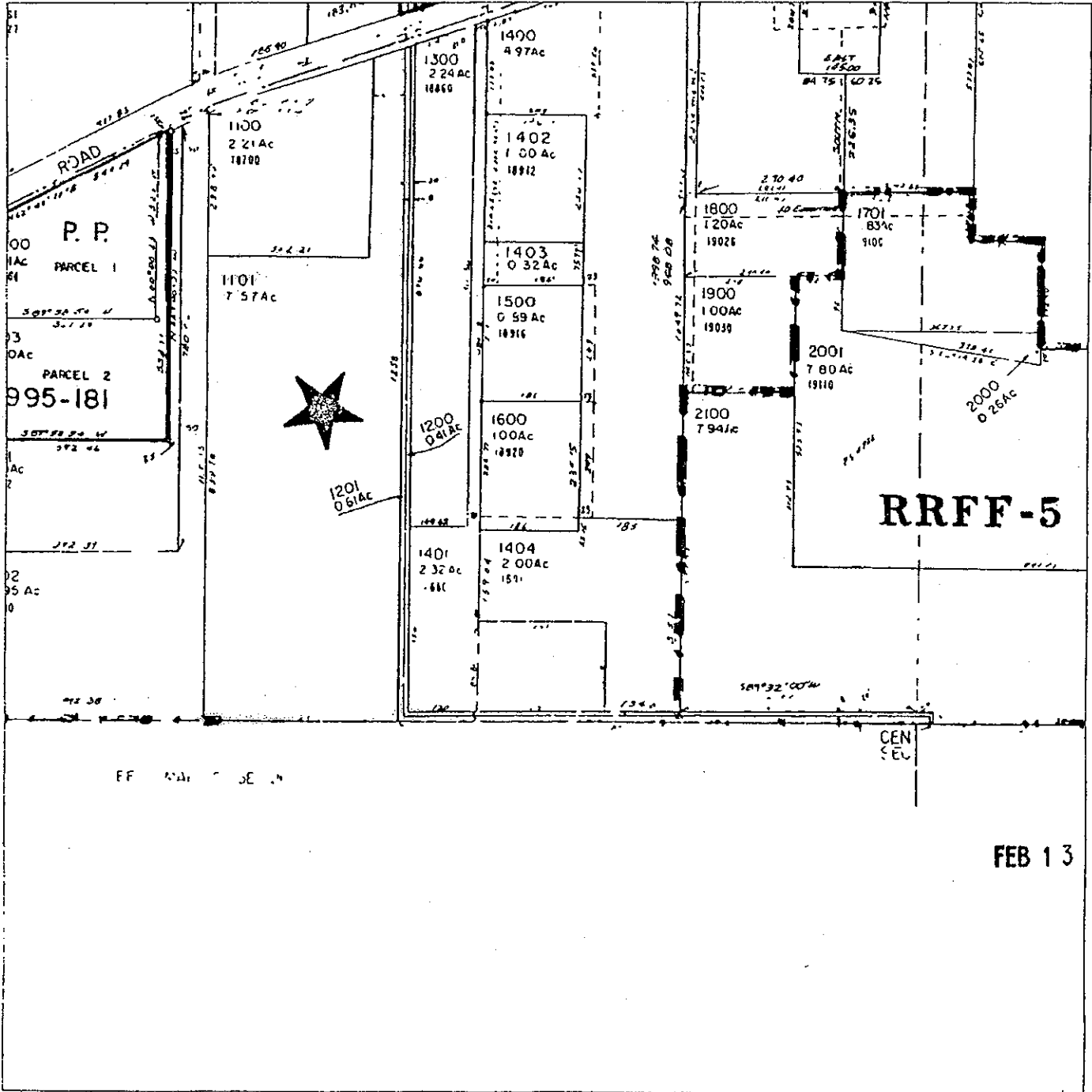
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*This map is provided as a convenience in locating property
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Reference Parcel Number 23E08B 01101





Clackamas (OR)

<p>Prepared For:</p>	<p>Prepared By: Anthony Falkner Customer Service Department 1700 SW Fourth Avenue - Portland, Oregon 97201-5512 Phone: (503) 222-3651 Fax: (503) 790-7872</p>
----------------------	---

OWNERSHIP INFORMATION

<p>Owner : Hanks Franklin R & Marlene A CoOwner : Site Address : 16000 SE Keller Rd Clackamas 97015 Mail Address : 16000 SE Keller Rd Clackamas Or 97015 Telephone : <i>Owner:</i> <i>Tenant:</i></p>	<p>Ref Parcel Number : 23E08C 00101 T: 02S R: 03E S: 08 Q: 252 Parcel Number : 05006313 County : Clackamas (OR)</p>
---	---

SALES AND LOAN INFORMATION

<p>Transferred : Document # : Sale Price : Deed Type : % Owned :</p>	<p>Loan Amount : Lender : Loan Type : Interest Rate : Vesting Type :</p>
---	---

PROPERTY DESCRIPTION

Map Page & Grid : 688 G1
Census : Tract: 232.02 Block: 2
Improvement Type : *unknown Improvement Code*
Subdivision/Plat :
Neighborhood Cd :
Land Use : 641 For,Forest Land,Improved
Legal : PARTITION PLAT 2002-058 PARCEL 2

ASSESSMENT AND TAX INFORMATION

MktLand : \$241,542
MktStructure : \$357,310
MktTotal : \$598,852
M50 Assd Total : \$317,473
% Improved : 60
04-05 Taxes : \$4,207.22
Exempt Amount :
Exempt Type :
Levy Code : 026009
Millage Rate : 13.2522

PROPERTY CHARACTERISTICS

<p>Bedrooms : Bathrooms : Fireplace : Heat Type : Interior Material: Exterior Finish : Floor Cover : Roof Type : Roof Shape : Foundation :</p>	<p>Building SF : 8,446 1st Floor SF : Above Ground SF : Upper Finished SF : Unfin Upper Story : Upper Total SF : Finished SF : Basement Fin SF : Basement Unfin SF : Basement Total SF :</p>	<p>Stories : Garage SF : Lot Acres : 19.99 Lot SF : 870,764 Year Built : 2001 Year Appraised : Appraisal Area : School District : 026 Utility District :</p>
---	---	---

This title information has been furnished, without charge, in conformance with the guidelines approved by the State of Oregon Insurance Commissioner. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insureds. Indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.



First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

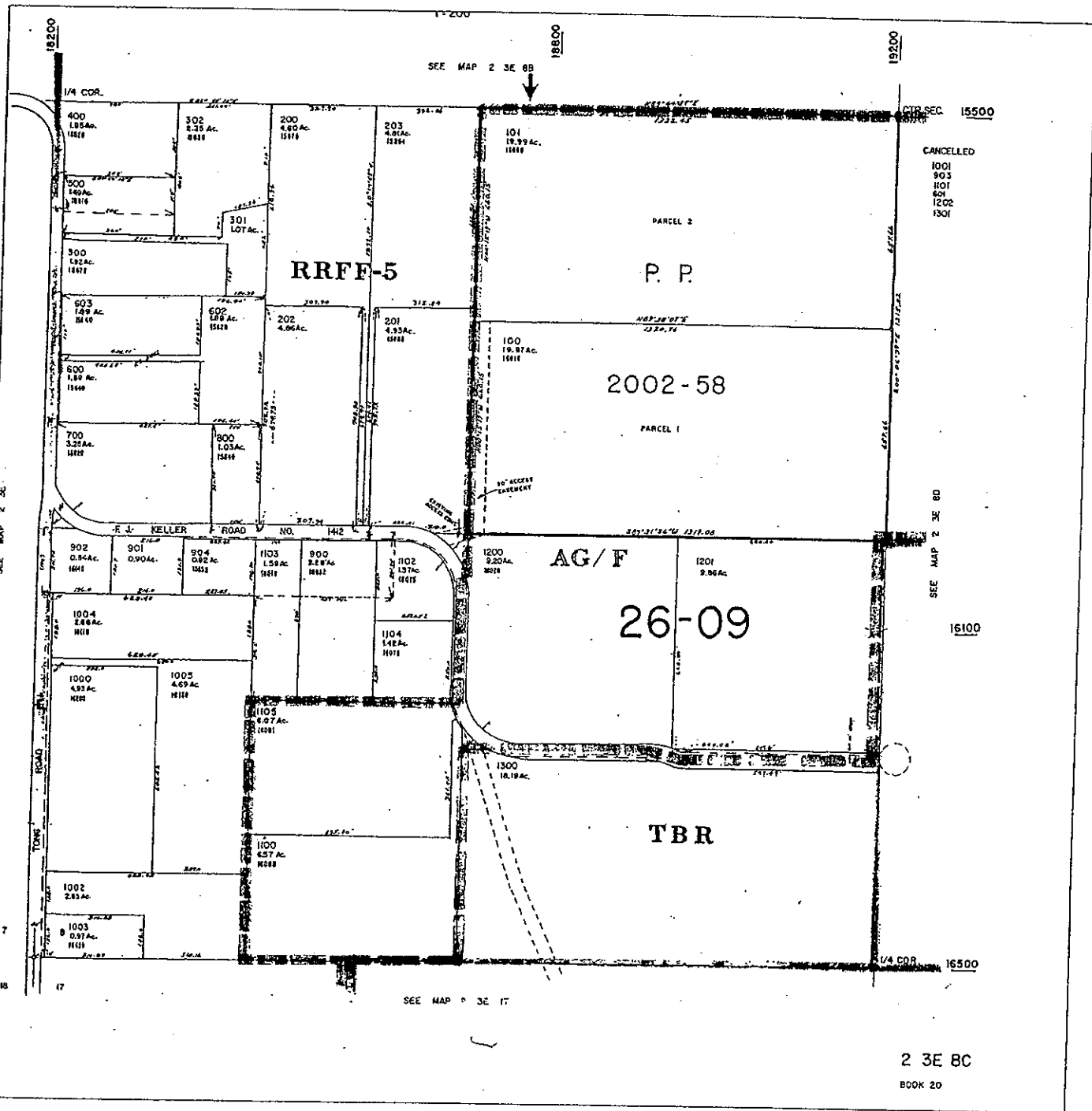
1700 SW Fourth Avenue Portland, OR 97201-5512

Phone: (503) 222-3651

RESOLUTION NO. 06-3710
Attachment 4: COO Report

This map is provided as a convenience in locating property
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey

Reference Parcel Number 23E08C 00101



4.61 Purpose.

A..... The purpose of this district is to provide and protect areas for agriculture, and for the raising of livestock.

4.62 Principal Uses Permitted.

A..... Agriculture, horticulture, greenhouses, nurseries, timber growing, grazing, and the raising of livestock and animals.

B..... Dwellings for the owner, operator and/or help required to carry out the permitted activities.

C..... Single-family dwelling units.

D..... Public parks, play grounds, recreational and community buildings and grounds, public golf courses, tennis courts, and similar recreational uses, all of a non-commercial nature, provided that any principal building or swimming pool shall be located not less than 45 feet from any other lot in the residential district.

E..... (Subsection C of Section 4.62 deleted by Order No. 9270 passed and effective October 30, 1961.)

F..... Kennels, provided that the use and that portion of the premises used is located not less than 200 feet from any residence other than the residence of the owner or operator.

4.63 Accessory Uses Permitted.

A..... Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal uses permitted located on the same lot therewith.

B..... Home occupations.

C..... Roadside stands when located on the same property as the principal use permitted when selling only those products that are produced on the same property on which the stand is located.

D..... Signs advertising produce that is grown on the same property on which the sign is located, and when the sign is not over thirty (30) square feet in area.

4.64 Conditional Uses Permitted.

(Section 4.64 amended by Order No. 9270, passed and effective October 30, 1961.)

A..... Homes for the Aged, Nursing Homes, ~~Private Parks~~, Municipal and Government Buildings, Public Utilities, Cemeteries, Churches, Two-Family Dwellings, Public Schools, and Private and Parochial Schools offering curricula similar to Public Schools, Private and Parochial Schools offering curricula dissimilar to Public Schools, Quarries, Dumps and Trailer Parks, as provided in Section 8, only when approved by the Planning Commission.

4.65 Dimensional Standards.

A..... Minimum lot size: One (1) acre.

B..... Minimum front, rear and side yard setback: Thirty (30) feet. Accessory buildings and roadside stands of not more than 400 square feet in size and not exceeding twenty (20) feet in height need not observe yard setback lines. No principal structure shall be erected closer than 55 feet from the centerline of any public, county, or state road.

4.66 Off-Street Parking Requirements.

A..... One (1) off-street parking space located to the rear of the front yard setback line shall be provided for each dwelling unit.

B..... Off-street parking for other permitted uses as specified in Section 7.1.

4.67 Signs.

A..... As provided in Section 7.5.

4.68 Corner Vision.

A..... Corner lots shall have no sight-obstructing structures or plantings to exceed three (3) feet in height, located closer than 20 feet from the lot corner nearest the street corner.

4.69 Prohibited Uses.

A..... Uses of structures and land not specifically permitted in Section 4.6 are prohibited in all RA-1 Districts.

B..... Outdoor advertising displays, advertising signs, or advertising structures as provided in Section 7.5.

C..... The use of a trailer house as a residence when not located in a licensed trailer park.

CLACKAMAS COUNTY ZONING ORDINANCE

4.6 RA-1 RURAL (AGRICULTURAL) SINGLE FAMILY RESIDENTIAL DISTRICT

4.61 Purpose.

a...The purpose of this district is to provide and protect areas for agriculture, and for the raising of livestock.

4.62 Principal Uses Permitted.

a...Agriculture, horticulture, greenhouses, nurseries, timber growing, grazing, and the raising of livestock and animals.

b...Dwellings for the owner, operator and/or help required to carry out the permitted activities.

c...Single-Family dwelling units.

d...Public Parks, playgrounds, recreational and community buildings and grounds, public golf courses, tennis courts, and similar recreational uses, all of a non-commercial nature, provided any principal building or commercial nature, provided any principal building or swimming pool shall be located not less than 45 feet from any other lot in the residential district.

e...Kennels, provided that the use and that portion of the premises used is located not less than five-hundred (500) feet from any residence other than the residence of the owner or operator.

4.63 Accessory Uses Permitted.

a...Accessory uses, buildings and structures customarily incidental to any of the aforesaid principal uses permitted located on the same lot therewith.

b...Home occupations.

c...Roadside stands when located on the same property as the principal use permitted when selling only those products that are produced on the same property on which the stand is located.

d...Signs advertising produce that is grown on the same property on which the sign is located, and when the sign is not over thirty (30) square feet in area.

4.64 Conditional Uses Permitted.

a...Homes for the aged, Nursing Homes, Private parks, Municipal and Government Buildings, Public Utilities, Two-family dwellings, Condominiums, Trailer Parks, Gravel and Quarry Sites, Cemeteries, Churches, Public Schools, and Private and Parochial Schools offering curricula similar to public schools, Private Schools and Parochial Schools offering curricula dis-similar to Public Schools, Aircraft Landing Areas, as provided in Section VIII only when approved by the Planning Commission.

4.65 Dimensional Standards.

a...Minimum Lot Size: One (1) Acre.

(1) Minimum Lot Size in an RA-1 District may change as follows when located within a public water or sanitary district with written approval of the County Health Department and proof of availability of the utility to the particular site.

(a) The size of an individual lot may be reduced to a minimum of 30,000 square feet.

(b) The size of lots within new subdivisions may be reduced to standards described within Sections 4.4 (R-20) or 4.5 (R-30), upon approval of said subdivision by the Planning Commission, Health Department, and Road Department. The development of said area within said subdivision shall thereafter follow the requirements of either the R-20 or R-30 Districts upon final approval of said subdivision, and all appropriate standards shall be met.

b...Minimum front and rear yard setbacks: Thirty (30) feet.

c...Minimum side yard setback: Ten (10) feet.

4.66 Off-Street Parking Requirements.

a...One(1) off-street parking space located to the rear of the front yard setback line shall be provided for each dwelling unit.

b...Off-street parking for other permitted uses as specified in Section 7.1.

4.67 Signs.

a...As provided in Section 7.5.

4.68 Corner Vision.

a...Corner lots shall have no sight-obstructing structures or plantings to exceed three (3) feet in height, located closer than twenty (20) feet from the lot corner nearest the street corner.

4.69 Prohibited Uses.

a...Uses of structures and land not specifically permitted are prohibited in all RA-1 Districts.

b.. Outdoor advertising displays, advertising signs, or advertising structures as provided in Section 7.5.

c...The use of a trailer house as a residence when not located in a licensed trailer park,

CLACKAMAS COUNTY ZONING ORDINANCE AMENDMENT

FINAL COURT ORDER NO. 70-402
AS AMENDED BY COURT ORDER NO. 72-341
DATE: MAY 27, 1970

Amends Section 4.65 Dimensional Standards

DIMENSIONAL STANDARDS

4.65 Dimensional Standards:

- A. Minimum Lot Size: There is established within the rural agricultural single family residential district two (2) minimum required lot size standards. Each shall be identified on the zoning map by the designations RA-1 or RA-1-5.
1. The minimum required area of a lot in an area designated as RA-1 shall be one (1) acre.
 2. The minimum required area of a lot in an area designated as RA-1-5 shall be five (5) acres. This five (5) acre requirement shall not automatically be reduced due to the availability of community facilities such as sewers and/or water.
 3. Furthermore, if an individual owns a piece of property which is greater than five (5) acres but less than ten (10) acres in size at the adoptive date of this section of the Zoning Ordinance into any portion of Clackamas County, it shall be permissible to divide the said parcel into two (2) individual parcels. However, neither parcel shall be less than two (2) acres in size.

MINOR PARTITION APPLICATION

DEPARTMENT OF ENVIRONMENTAL SERVICES CLACKAMAS COUNTY PLANNING DIVISION
902 Abernethy Road Oregon City, Oregon 97045
Phone: (503) 865-8621

- 1. FEE: The fee is \$ 260.00 per application.
- 2. MAPS: Attach six (6) maps with all required information listed. Application cannot be processed unless all required information is furnished.
- 3. Building Permit Application Number, if any: None
- 4. Variance Application Number, if any: None
- 5. Non-Farm/Forest Application Number, if any: None

TOWNSHIP T2S RANGE R3E SECTION 8B TAX LOT 1101

I / We hereby submit this application for approval of a minor partition, as indicated on the attached map.

FRANKLIN R HANKS 16000 SE KELLER CLACKAMAS OR 97015
(Name, address, and telephone number of applicant. Please print.) 658-2900

Marlene A HANKS 16000 SE KELLER CLACKAMAS, ORC 97015
(Name, address, and telephone number of applicant. Please print.)

Franklin R Hanks
Marlene A Hanks
Signature of Applicant

4/17/89
Date

Franklin R Hanks
Marlene A Hanks
Signature of Legal Owner

4/17/89
Date

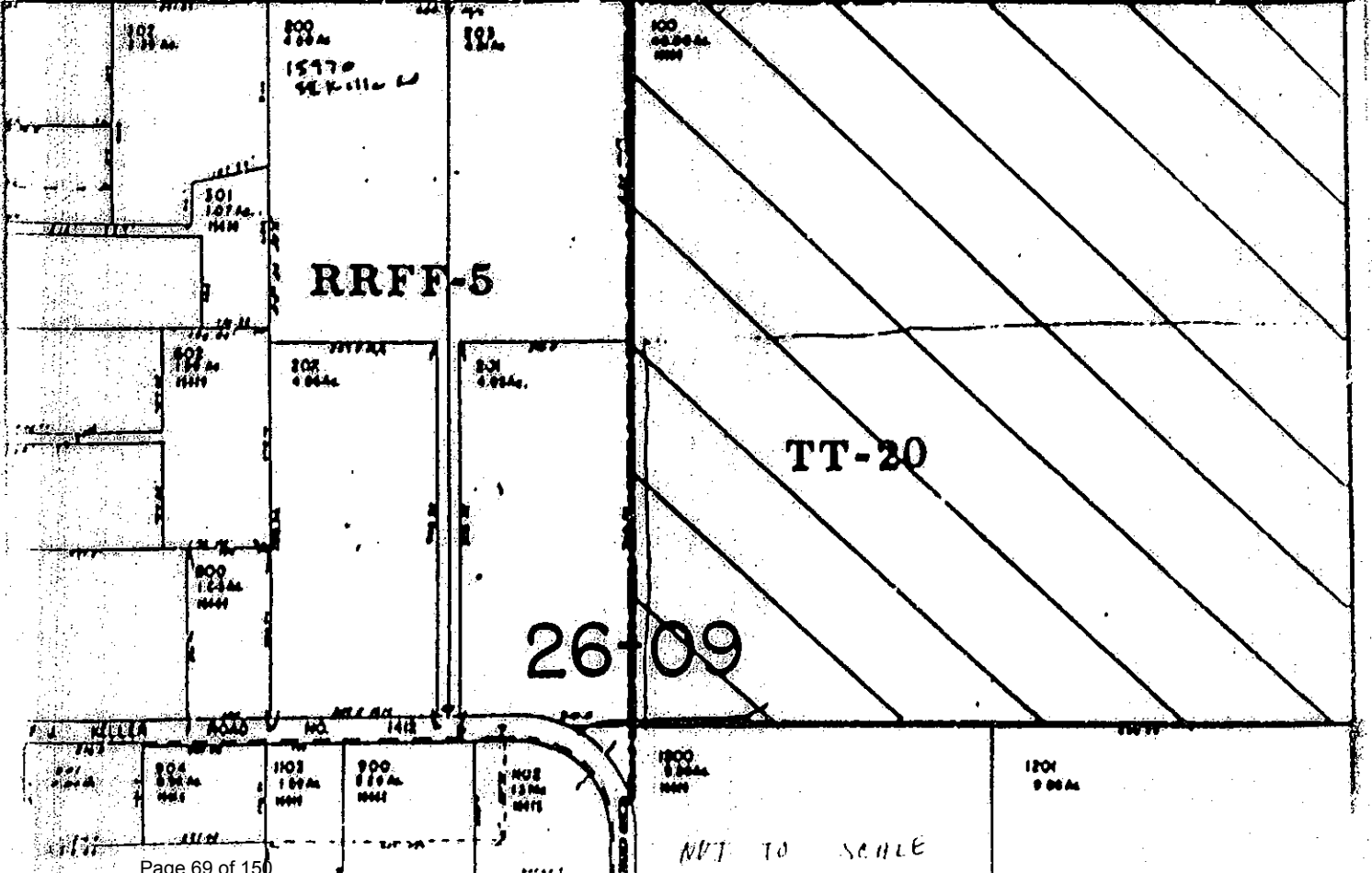
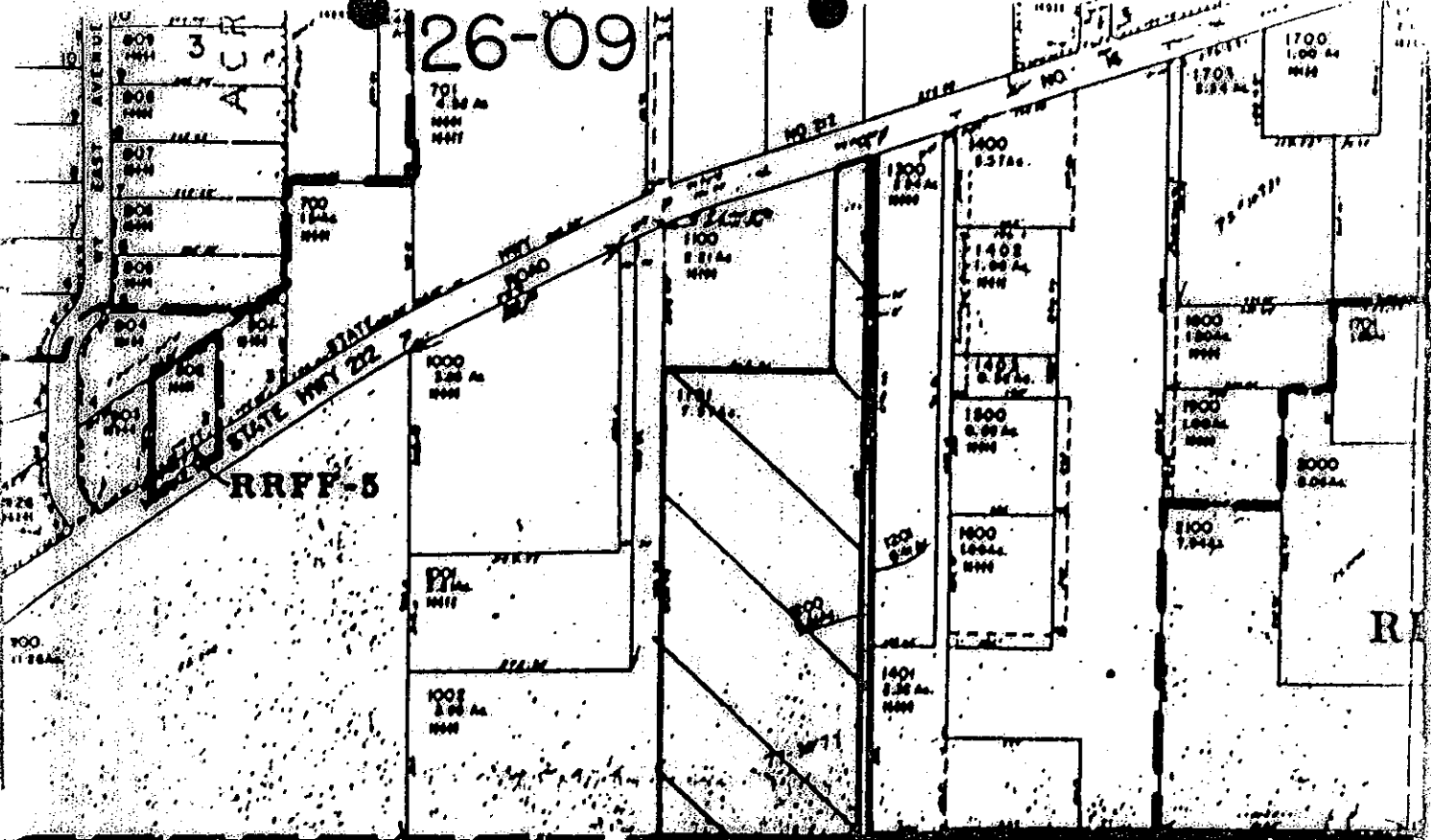
APR 23 1989
APR 23 1989
APR 23 1989
9288EH
FM 200
M 260
CHK
CHNG

FOR OFFICE USE ONLY

Date Received 4-23-89 File No. 83-25-M

Received By TC

26-09



NOT TO SCALE



CLACKAMAS COUNTY

Department of Transportation & Development

WALTER SMITH
EXECUTIVE DIRECTOR
RICHARD BOYD
DIRECTOR
OPERATIONS & ADMINISTRATION
TOM WASSERMAN
DIRECTOR
PLANNING & DEVELOPMENT

June 8, 1989

LAST DATE TO APPEAL: JUN 19 1989

Franklin and Marlene Hanks
16000 S.E. Keller
Clackamas, OR 97015

RE: File No. 838-88-FM,N

The Planning Division has reviewed your application for a Minor Partition on property identified as Tax Lot(s) 1101, Township 2, Range 3E, Section 8C. The request is consistent with the Zoning and Development Ordinance and Comprehensive Plan and is approved. Approval is subject to the conditions of approval identified below. This decision, or any of the conditions of approval may be appealed by filing a written appeal with this office within 10 days of the date of decision, with an appeal fee equal to one-half the original application fee.

CONDITIONS OF APPROVAL

1. All conditions of approval shall be guaranteed or completed prior to issuance of any building permits, unless otherwise noted below.
2. Within 180 days of the date of decision, four copies of a final survey of the approved map must be submitted to this office for review. The date of approval of the final survey by the Planning Division shall be considered the date of final approval of the partition. Failure to submit the final survey will void this partition approval.
3. No parcel in an approved minor partition can be redivided through partitioning until the next calendar year following the date of final approval of the partition and the date of sale of the individual parcel.
4. Before a building permit can be issued, an instrument creating the parcel must be recorded. Please include the minor partition file number on the recording instrument. A copy of the recording instrument creating the parcel must accompany the building permit application.
5. All structures and uses shall conform to the requirements of the RRFF-S zoning district.

Franklin and Marlene Hanks
Page 2
June 8, 1989

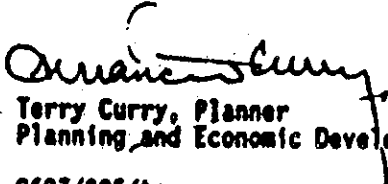
6. A septic permit must be acquired from the Department of Transportation and Development prior to issuance of a building permit.
7. The applicant must file a statement of water rights with the Oregon Water Resources Department. PRIOR TO ISSUANCE OF A BUILDING PERMIT, a copy of the acknowledgment from the Water Resources Department must be submitted to the Planning Division.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

IF YOU DISAGREE WITH THIS DECISION OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS ONE-HALF THE ORIGINAL FILING FEE. YOUR APPEAL MUST BE RECEIVED IN THE PLANNING DIVISION OFFICE BY THE LAST DATE TO APPEAL, WHICH IS

JUN 1 9 1989

Sincerely,


Terry Curry, Planner
Planning and Economic Development Division

0607/205/tc:mp

**NOTICE OF DECISION ON
ADMINISTRATIVE FARM MANAGEMENT PLAN**

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
PLANNING AND ECONOMIC DEVELOPMENT DIVISION
902 Abernethy Road, Oregon City, Oregon 97048
Phone: 655-8521

DATE: June 13, 1989
LAST DATE TO APPEAL: JUN 25 1989
FILE NO.: 838-88-FM
STAFF CONTACT: Terry Curry
APPLICANT: Franklin Hanks
OWNER OF PROPERTY: Same

Will require this approval as authorization to create two (2) twenty-acre parcels, subject to plat requirements. Residents approved on northerly parcel.
- Per McClain
5/12/89

LOCATION: South side of State Highway 212, approximately 1/4 mile east of S.E. Wycast Avenue; Damascus area.
LEGAL DESCRIPTION: T2S, R3E, Section 8C, Tax Lot 100, -M.N.
TOTAL AREA INVOLVED: Approximately 40 acres
PRESENT ZONING: TT-20; Transitional Timber, 20 acre minimum lot size

CITIZENS PLANNING ORGANIZATION FOR AREA: Damascus Community Association; c/o Susan Lester; 16796 S.E. Royer Road; Clackamas, OR 97015; 655-5083

PROPOSAL: Divide the property into two 20-acre parcels and establish a residence on the northerly parcel (the southerly parcel contains an existing residence).

FINDINGS: The Planning Division staff has reviewed this request to establish a residence in conjunction with a farm use. Pursuant to the criteria stated in Section 403 of the Clackamas County Zoning and Development Ordinance, the staff finds:

1. The lot is as large as the acreage supporting the typical commercial farm unit in this area. Farm units in this area are typically in the 20-acre or less range. The parcel under consideration through this application is consistent with this typical parcel size.
2. The farm management plan does establish the suitability of the proposed use for this area. The soils found on the property are suitable for the production of livestock, the use proposed by the applicant.
3. The lot size is sufficient to adequately support the proposed principal use.
4. The proposed residential development will not adversely affect or limit existing or potential farm uses in the area. The proposed residence will be located a sufficient distance from all property lines to minimize the potential for adverse impacts on other resource uses in the area.
5. The proposed development will not reduce the current agricultural productivity of this lot. Implementation of the use identified through the applicant's management plan will result in a maintenance or increase in the current level of agricultural productivity of the site.
6. This area is not located within a Big Game Winter Range as identified on Table III-1 and Map III-3 of the Comprehensive Plan.
7. Approval of the proposed farm management plan will not be in conflict with the Clackamas County Comprehensive Plan. One of the primary goals of the Forest element of the Comprehensive Plan is to preserve and protect forest lands for farm and forest uses. Implementation of this management plan would be consistent with that Comprehensive Plan goal.

DECISION: Based on these findings, it is the decision of the Clackamas County Planning Division staff to approve this application. Approval is subject to the following conditions:

1. There must be strict compliance with the use described in the management plan. Failure to establish and maintain the proposed use will be cause for revocation of this approval.
2. Approval by the Department of Transportation and Development, Soils Division, for the means of subsurface sewage disposal.
3. The applicant shall obtain a building permit for the proposed single family residence through the Department of Transportation and Development, Building Division.
4. Approval is subject to the above stated conditions. Failure to comply with all conditions of approval will be cause for revocation of this permit.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 218 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS ONE-HALF OF THE ORIGINAL FILING FEE. YOUR APPEAL MUST BE RECEIVED IN THE PLANNING DIVISION OFFICE BY THE LAST DATE TO APPEAL, WHICH IS JUN 23 1989. THIS PERMIT WILL NOT BE ISSUED UNTIL THE DAY AFTER THE APPEAL DEADLINE.

0612/819-2/tc:mp

Date Mailed: 6-13-89
 Neighborhood Group
 Property owners (50%)
 Applicant
 Attorney
 Others:

FARM MANAGEMENT PLAN

A Management Plan is a detailed description of how a land owner is or intends to use and manage land for farm or forest purposes. It is a statement of the land owner's goals and objectives. Its purpose is to achieve optimum production - growth and harvest - of farm or forest products consistent with the protection of valuable soil, air, water, and aesthetic resources. When a land owner submits a Management Plan to the County for its consideration, it is a commitment by the land owner to work toward the goals embodied in the management plan. Such commitment by the land owner is a requirement and a condition of approval for a residence on the land.

IN EXCLUSIVE FARM USE (EFU-20) AND GENERAL AGRICULTURAL (GAD) ZONES STATE LAW AND COUNTY ORDINANCE NOW REQUIRE THAT A COMMERCIAL FARM USE BE ESTABLISHED BEFORE A PERMANENT RESIDENCE CAN BE PLACED ON THE PROPERTY.

Required Fee: \$200.-

Submittal Requirements

- Written description of a five-year plan describing the proposed crop or livestock pattern by type, location, and area size.
- Written description of the existing or proposed commercial farm operation.
- Site Map drawn to scale, indicating:
 - a. Existing and proposed structures.
 - b. Access.
 - c. Each area of the parcel devoted to various existing and/or proposed farm uses.
- Receipts or other documentation demonstrating a commitment to conduct the agricultural use.

Plan

1. Referring to the numbered production areas on a site map drawn to scale please outline your production schedule or farm use for each area or use for the next five years, by describing the following:

A. existing and proposed uses; B. site preparation required (include what has been completed, expenses, and what is still required).

We raise cattle, and have raised cattle for the last 12 years. We have approximately one head per acre because of poor soil conditions. Also it depends on how much rain we get for the year.

C. From information provided above, indicate for each numbered area from the site map:

1. To start production provide projected:

Crop yield per acre: _____

Number of livestock per acre: 1

Cost to establish: Crop: _____ Livestock: \$10,000.00

Estimated annual income: for first full year: _____ Crop: _____

Livestock: \$10,000.00

2. At full capacity, provide projected:

Yield of crop per acre: _____

Number of livestock per acre: 1

Sustained annual yield of livestock: 20

Estimated annual income: \$10,000.00

When do you expect this farm to be at full capacity: _____

3. What is the source of your information on annual income? experience

II. How is your farm typical of farm uses and farm sizes within a one mile radius. If not typical, describe how it is a more intensive farm use.

Because of poor soil conditions, you can only run approx one head per acre - Depending on size of animals

III. List by legal description the location of other property owned or leased by you for farm use.

IV. Does the property have a current Tax Deferral for: Farm, yes no
Forest yes no

V. If more than one residence is proposed in conjunction with the farm, indicate and substantiate a need for additional residence(s).



CLACKAMAS COUNTY

RESOLUTION NO. 06-3710
Attachment 4: COO Report

Department of Transportation & Development

WINSTON KURTH
EXECUTIVE DIRECTOR

RICHARD DOPP
DIRECTOR
OPERATIONS & ADMINISTRATION

TOM VANDERZANDEN
DIRECTOR
PLANNING & DEVELOPMENT

Legal: T 2, R 3, Section 5B

Tax Lot(s) 1100, 1101 + 2 3E8C 100

Date: 1-13-89

By: A. J.

RESEARCH REQUEST

Applicant's Name: MARIJAN BOSNAR Phone: 235-2104

Address: 2058 SE Spruce Ave

City: Portland State: OR Zip: 97214

Request: Are there separate legal lots of record?

PLANNING DEPARTMENT RESPONSE

Current Zone: RRFF-5-12-17-75 Comprehensive Plan: _____

Prior Zone: RA-1 9-8W

Staff Member: Sturmy Date: 3-9-89

COMMENTS

Each of these parcels is a legal lot of record.



A legal lot is buildable for one single family dwelling pending septic approval.

These comments pertain to land use regulations in effect on the date of this response, to the specific piece of property and to the specific question asked. Land use regulations are subject to change. Building permit applications are reviewed within regulations in effect at the time of permit application.

23-00
1100, 1101
100



CLACKAMAS COUNTY

Department of Transportation & Development

WINSTON BIRTH
EXECUTIVE DIRECTOR

RICHARD BOYD
DIRECTOR OF
OPERATIONS & ADMINISTRATION

TOM WUNDERLICH
DIRECTOR OF
PLANNING & DEVELOPMENT

June 8, 1989

LAST DATE TO APPEAL: JUN 10 1989

Franklin and Marlene Hanks
16000 S.E. Keller
Clackamas, OR 97015

RE: File No. 838-88-FM,M

The Planning Division has reviewed your application for a Minor Partition on property identified as Tax Lot(s) 1101, Township 2, Range 3E, Section 8C. The request is consistent with the Zoning and Development Ordinance and Comprehensive Plan and is approved. Approval is subject to the conditions of approval identified below. This decision, or any of the conditions of approval may be appealed by filing a written appeal with this office within 10 days of the date of decision, with an appeal fee equal to one-half the original application fee.

CONDITIONS OF APPROVAL

1. All conditions of approval shall be guaranteed or completed prior to issuance of any building permits, unless otherwise noted below.
2. Within 180 days of the date of decision, four copies of a final survey of the approved map must be submitted to this office for review. The date of approval of the final survey by the Planning Division shall be considered the date of final approval of the partition. Failure to submit the final survey will void this partition approval.
3. No parcel in an approved minor partition can be redivided through partitioning until the next calendar year following the date of final approval of the partition and the date of sale of the individual parcel.
4. Before a building permit can be issued, an instrument creating the parcel must be recorded. Please include the minor partition file number on the recording instrument. A copy of the recording instrument creating the parcel must accompany the building permit application.
5. All structures and uses shall conform to the requirements of the RRF-5 zoning district.

NOTICE OF DECISION ON
ADMINISTRATIVE FARM MANAGEMENT PLAN

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
PLANNING AND ECONOMIC DEVELOPMENT DIVISION
902 Abernethy Road, Oregon City, Oregon 97045
Phone: 655-8521

DATE: June 13, 1989

LAST DATE TO APPEAL: JUN 23 1989

FILE NO.: 838-88-FM

STAFF CONTACT: Terry Curry

APPLICANT: Franklin Hanks

OWNER OF PROPERTY: Same

LOCATION: South side of State Highway 212, approximately 1/4 mile east of S.E. WyEast Avenue; Damascus area.

LEGAL DESCRIPTION: T2S, R3E, Section 8C, Tax Lot 100, W.M.

TOTAL AREA INVOLVED: Approximately 40 acres

PRESENT ZONING: TT-20; Transitional Timber, 20 acre minimum lot size

CITIZENS PLANNING ORGANIZATION FOR AREA: Damascus Community Association; c/o Susan Lester; 16796 S.E. Royer Road; Clackamas, OR 97015; 658-5083

PROPOSAL: Divide the property into two 20-acre parcels and establish a residence on the northerly parcel (the southerly parcel contains an existing residence).

FINDINGS: The Planning Division staff has reviewed this request to establish a residence in conjunction with a farm use. Pursuant to the criteria stated in Section 403 of the Clackamas County Zoning and Development Ordinance, the staff finds:

1. The lot is as large as the acreage supporting the typical commercial farm unit in this area. Farm units in this area are typically in the 20-acre or less range. The parcel under consideration through this application is consistent with this typical parcel size.
2. The farm management plan does establish the suitability of the proposed use for this area. The soils found on the property are suitable for the production of livestock, the use proposed by the applicant.
3. The lot size is sufficient to adequately support the proposed principal use.
4. The proposed residential development will not adversely affect or limit existing or potential farm uses in the area. The proposed residence will be located a sufficient distance from all property lines to minimize the potential for adverse impacts on other resource uses in the area.
5. The proposed development will not reduce the current agricultural productivity of this lot. Implementation of the use identified through the applicant's management plan will result in a maintenance or increase in the current level of agricultural productivity of the site.
6. This area is not located within a Big Game Winter Range as identified on Table III-1 and Map III-3 of the Comprehensive Plan.
7. Approval of the proposed farm management plan will not be in conflict with the Clackamas County Comprehensive Plan. One of the primary goals of the Forest element of the Comprehensive Plan is to preserve and protect forest lands for farm and forest uses. Implementation of this management plan would be consistent with that Comprehensive Plan goal.

DECISION: Based on these findings, it is the decision of the Clackamas County Planning Division staff to approve this application. Approval is subject to the following conditions:

1. There must be strict compliance with the use described in the management plan. Failure to establish and maintain the proposed use will be cause for revocation of this approval.
2. Approval by the Department of Transportation and Development, Soils Division, for the means of subsurface sewage disposal.
3. The applicant shall obtain a building permit for the proposed single family residence through the Department of Transportation and Development, Building Division.
4. Approval is subject to the above stated conditions. Failure to comply with all conditions of approval will be cause for revocation of this permit.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS ONE HALF OF THE ORIGINAL FILING FEE. YOUR APPEAL MUST BE RECEIVED IN THE PLANNING DIVISION OFFICE BY THE LAST DATE TO APPEAL, WHICH IS JUN 23 1989. THIS PERMIT WILL NOT BE ISSUED UNTIL THE DAY AFTER THE APPEAL DEADLINE.

0612/519-2/ :mp

Date Mailed: 6-13-89
Neighborhood Group _____
Property owners (250) Adg



Prudential

Prudential Northwest Properties Damascus
20320 SE Highway 212
Clackamas, OR 97015
Bus 503 658-8001
Toll Free 800 546-7356
Fax 503 658-8422

Marlene Hanks,

Please find enclosed the market valuation of your property. The range for the proposed one acre lots would be between \$180,000 and \$245,000 depending upon the caliber of homes required on the lots.

As for your property's present value, we are seeing a number of transactions within the area from speculative buyers in the range of \$80,000 to \$110,000 per acre for the larger pieces such as yours.

I hope this information is helpful as you move forward in your decision making process. Please feel free to contact me for further assistance.

Respectfully

A handwritten signature in black ink, appearing to read "Michael Hammons".

Michael Hammons
Broker/Owner

Comparative Market Analysis

for

Hanks

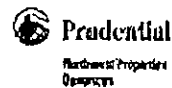
**SUBJECT
PROPERTY**

Damascus one acre lots

Prepared By:

**Michael Hammons
Prudential NWP Damascus**

6/28/2005



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

0 SW MILLER CT	LND	ACT	\$249,000
-----------------------	------------	------------	------------------



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!

0 WALTERS LOOP	LND	ACT	\$299,500
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No Photo Available

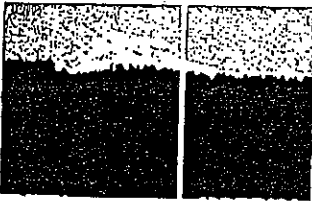
ML#: 5025910
MLS Area: 144
County: Multnomah
Neighborhood: VIEW CREST HEIGHTS
Zip Code: 97080
T/Guide: 629B4
Tax Id #: R489343

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!

0 maple hill LN	LND	ACT	\$245,000
------------------------	------------	------------	------------------



ML#: 5031210
MLS Area: 145
County: Clackamas
Neighborhood:
Zip Code: 97009
T/Guide: 658E2
Tax Id #: 00137355

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 267.22

Directions: 205 E. ON FOSTER, S. ON 172, W ON MAPLE HILL LN, STAY LEFT LAST PROPERTY

Remarks: MT. HOOD AND PLEASANT VALLEY VIEW ON GENTLE SLOPING LOT, VERY VERY PRIVATE WITH PERFECT BUILDING SITE, AND ROOM FOR A LARGE SHOP.

18152 S BROOKSTONE DR	LND	ACT	\$280,000
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ML#: 5016849
MLS Area: 146
County: Clackamas
Neighborhood:
Zip Code: 97045
T/Guide: 718E2
Tax Id #: 05001306

Bedrooms:
Bathrooms:
Sub-Type: RESID
Style:
Year Built:
Total SF:
Tax per Year: 1898.56

Directions: HATTAN RD. TO REDLAND SCHOOL RD. TO BROOKSTONE

Remarks: LOVELY 1-ACRE BUILDING SITE ON FAIRLY LEVEL GROUND IN MATURE GATED BROOKSTONE COMMUNITY ON REDLAND. NBRHD IS HIGHER-END HOMES W/HOOD, CONVENIENT TO REDLAND SCHOOL. ONLY SITE LEFT IN BROOKSTONE. BRING YOUR BUILDER OR USE OURS! CALL L.A. FOR GATE ENTRY.

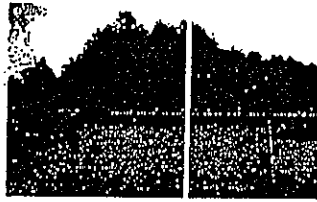
17980 SE VOGEL-L-reduced RD

LND

PEN

\$255,000

Attachment 7, CDD Report



ML#: 5031331
 MLS Area: 145
 County: Clackamas
 Neighborhood:
 Zip Code: 97009
 T/Guide: 658G5
 Tax Id #: 00610878

Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 937.7

Directions: 172ND TO EAST ON VOGEL, OR FOSTER TO WEST ON VOGEL

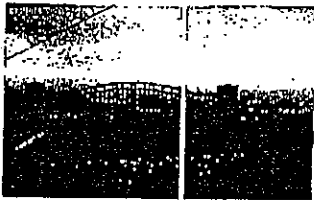
Remarks: PRICE REDUCED!!! MOTIVATED SELLER! 1.44 ACRES WITHIN THE NEW UGB! BEAUTIFUL BUILDING SITE! MANY POSSIBILITIES! BUYER TO VERIFY. LARGE TREES. TIMBER VALUE!!! MOBILE HOME IS LIVABLE BUT OF NO VALUE. PUBLIC WATER + CAPPED WELL.

10693 SE RIDGEWAY DR

LND

PEN

\$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

Directions: IDELVAN 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.

0 Holly

LND

PEN

\$149,000

No Photo Available

ML#: 5030109
 MLS Area: 146
 County: Clackamas
 Neighborhood:
 Zip Code: 97045
 T/Guide: 717F1
 Tax Id #: 00593343, 00593352

Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 200.5

Directions: 205, S ON PARK PLACE, E ON BEAVERCREEK, N ON MAPLELANE, W ON HOLLY

Remarks:

Le Ann CT

LND

SLD

\$250,000

No Photo Available

ML#: 5030876
 MLS Area: 144
 County: Clackamas
 Neighborhood:
 Zip Code: 97009
 T/Guide: 680F6
 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.

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13503 SE Richey Rd RD LND SLD \$160,000

No Photo Available

ML#: 4012645
 MLS Area: 145
 County: Clackamas
 Neighborhood:
 Zip Code: 97009
 T/Guide: 659G6
 Tax Id #: 01732922
 Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 1046

Directions: BORING SOUTH AT THE HARDWARE STORE THAT IS RICHEY RD
 Remarks: BEAUTIFUL FLAT LAND WITH 4 CAR GARAGE 2 CAR GARAGE AND A 50X25 EQUIPMENT STORAGE BUILDING NO SEPTIC ON PROPERTY, WATER METER ON PROPERTY, ELECTRIC CLOSE, GAS IN STREET-L

0 SE Valley View TER LND SLD \$210,000



ML#: 4080601
 MLS Area: 145
 County: Clackamas
 Neighborhood:
 Zip Code: 97015
 T/Guide: 657J3
 Tax Id #: 00118866
 Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 977.89

Directions: SUNNYSIDE - NORTH ON VALLEY VIEW TERRACE TO NW CORNER OF LENORE STREET
 Remarks: BUILD YOUR DREAM HOME ON THIS HUGE 0.83-ACRE LOT AMONG HIGH-PRICED HOMES IN THIS ESTABLISHED QUIET NEIGHBORHOOD. SPECTACULAR VALLEY AND MOUNTAINS VIEW. OFF SUNNYSIDE MINUTES FROM I-205 AND CLACKAMAS TOWN CENTER. PAVED ROADS AND UTIL TIES ADJACENT TO LOT.

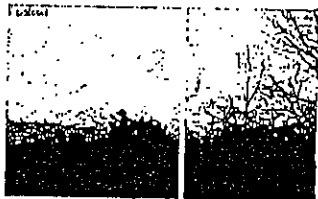
10915 SE VALLEY VIEW TER LND SLD \$395,000

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: SUN NEYSIDE
 Remarks:

17908 S Lavine LN LND SLD \$160,000



ML#: 4058746
 MLS Area: 146
 County: Clackamas
 Neighborhood:
 Zip Code: 97045
 T/Guide: 718D2
 Tax Id #: 05005618
 Bedrooms:
 Bathrooms:
 Sub-Type: RESID
 Style:
 Year Built:
 Total SF:
 Tax per Year: 973.48

Directions: RED LAND TO LAVINE LN.
 Remarks: WOW! WHAT A VIEW! GORGEOUS & RARE 1+ ACRE VIEW LOT. THE SITE SITUATED NEAR POPULAR FIELDSTONE & CLOSE TO THE 2004 STREET OF DREAMS BOASTS AN UNPARALLELED VIEW OF MT. HOOD WHILE ALSO ALLOWING SPACE FOR PRIVACY AND ENJOYMENT OF A SERENE AND NATURAL SETTING.

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Summary of Comparables

Active

MLS#	P	Type	Address	City	Area	Acres	Price
5032952	1	RESID	DAMASCUS ONE ACRE LOTS 0 SW MILLER CT	Gresham	144	1.01	\$249,000
5025910	0	RESID	0 WALTERS LOOP	Gresham	144	0.97	\$299,500
5031210	3	RESID	0 maple hill LN	Boring	145	0.88	\$245,000
5016849	1	RESID	18152 S BROOKSTONE DR	Oregon City	146	1	\$280,000

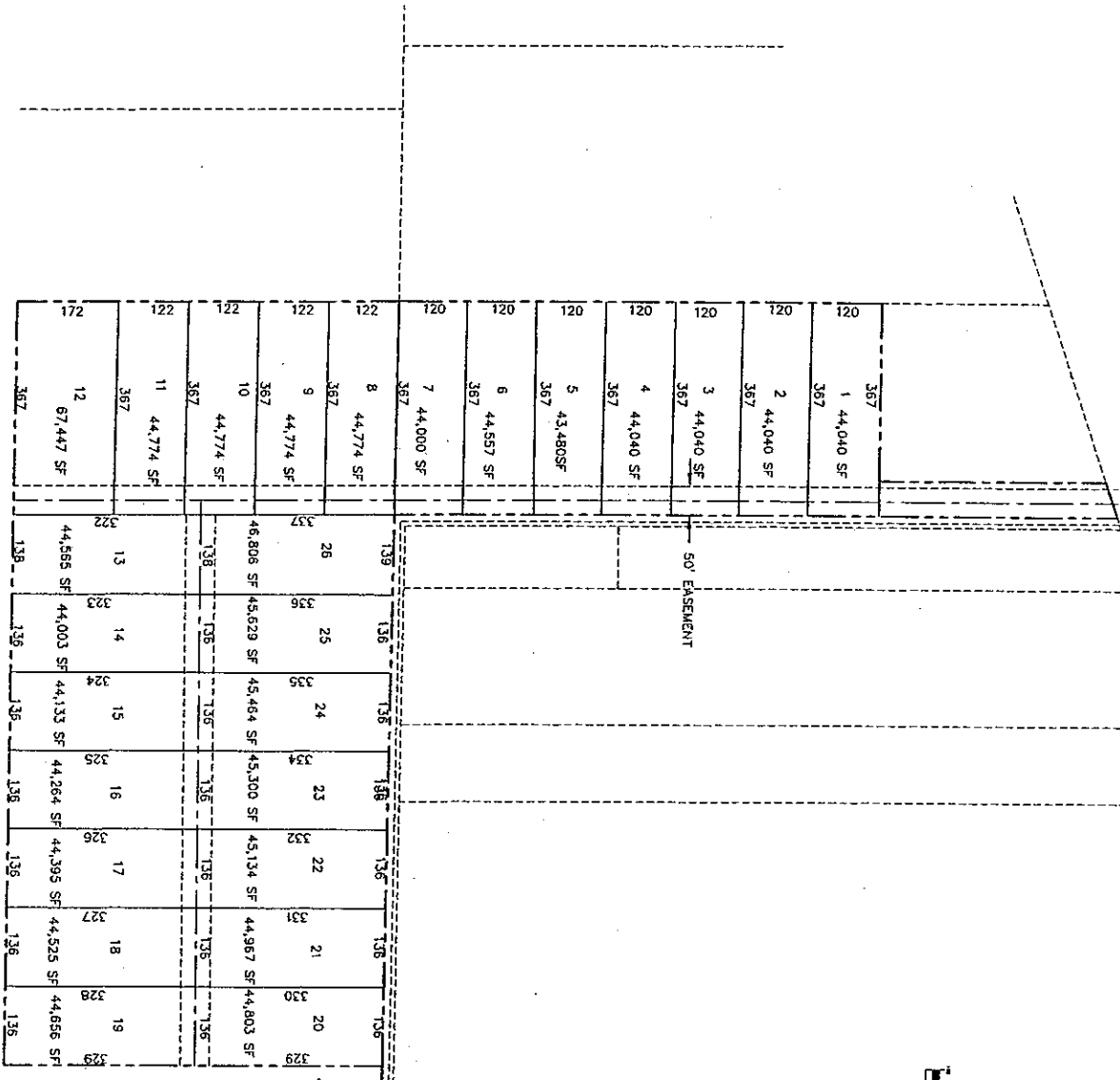
Pending

MLS#	P	Type	Address	City	Area	Acres	Price
5031331	1	RESID	DAMASCUS ONE ACRE LOTS 17980 SE VOGEL-reduced RD	Boring	145	1.44	\$255,000
4070992	6	RESID	10693 SE RIDGEWAY DR	Portland	145	1.2	\$325,000
5030109	0	RESID	0 Holly	Oregon City	146	0.89	\$149,000

Sold

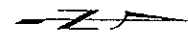
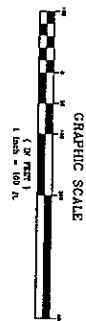
MLS#	P	Type	Address	City	Area	Acres	Price
5030876	0	RESID	DAMASCUS ONE ACRE LOTS Le Ann CT	Boring	144	0.98	\$250,000
4012645	0	RESID	13503 SE Richey Rd RD	Boring	145	1.4	\$160,000
4080601	4	RESID	0 SE Valley View TER	Happy Valley	145	0.83	\$210,000
5014586	0	RESID	10915 SE VALLEY VIEW TER	Happy Valley	145	1	\$395,000
4058746	1	RESID	17908 S Lavine LN	Oregon City	146	1.12	\$160,000

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



PRELIMINARY LAYOUT

SCALE: 1" = 100'



Date: 06-08-08 1 of 1	THE CLIENT THE CLIENT'S ADDRESS TAX LOT 101 + 101 DAMASCUS, OREGON	REV. DATE DESCRIPTION BY	H B H 11515 SW Durham Road, Suite E9 Tigard, Oregon 97224 Consulting 503/670-0499 • fax 503/670-0540 Engineers email: mail@hbh-consulting.com
	PRELIMINARY LAYOUT	DESIGNED BY: _____ DRAWN BY: _____ CHECKED BY: _____ DATE: 2005-008 FILE: E:\2005-008\TIGARD\101\101.DWG LAYOUT1	

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)	ORDINANCE NO. 04-1040B
METRO URBAN GROWTH BOUNDARY, THE)	
REGIONAL FRAMEWORK PLAN AND THE)	
METRO CODE TO INCREASE THE CAPACITY)	
OF THE BOUNDARY TO ACCOMMODATE)	
GROWTH IN INDUSTRIAL EMPLOYMENT)	Introduced by the Metro Council
)	

WHEREAS, by Ordinance No. 02-969B (For The Purpose Of Amending The Urban Growth Boundary, The Regional Framework Plan And The Metro Code In Order To Increase The Capacity Of The Boundary To Accommodate Population Growth To The Year 2022), the Council amended Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan to increase the capacity of industrial land to accommodate industrial jobs; and

WHEREAS, the Metro Council adopted an Employment and Industrial Areas Map as part of Title 4 (Retail in Employment and Industrial Areas) in Ordinance No. 96-647C (For the Purpose of Adopting a Functional Plan for Early Implementation of the 2040 Growth Concept) on November 21, 1996; and

WHEREAS, the Council amended the Regional Framework Plan (RFP) by Exhibit D to Ordinance No. 02-969B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in Order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022), adopted on December 5, 2002, to establish a new 2040 Growth Concept design type entitled "Regionally Significant Industrial Area" (RSIA) and to add Policies 1.4.1 and 1.4.2 to protect such areas by limiting conflicting uses; and

WHEREAS, by Exhibit F to Ordinance No. 02-969B the Council amended Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan ("UGMFP") to implement Policies 1.4.1 and 1.4.2 of the RFP; and

WHEREAS, by Exhibit E of Ordinance No. 02-969B the Council adopted a "Generalized Map of Regionally Significant Industrial Areas" depicting certain Industrial Areas that lay within the UGB prior to its expansion as part of Task 2 of periodic review as RSIA's; and

WHEREAS, Title 4 calls upon the Council to delineate specific boundaries for RSIA's derived from the 'Generalized Map of Regionally Significant Industrial Areas' after consultation with cities and counties; and

WHEREAS, by Ordinance No. 02-969B, the Council added capacity to the UGB but did not add sufficient capacity to accommodate the full need for land for industrial use; and

WHEREAS, the Metro Council submitted Ordinance No. 969B, in combination with other ordinances that increased the capacity of the UGB, to the Land Conservation and Development Commission (LCDC) as part of Metro's periodic review of the capacity of its UGB; and

WHEREAS, on July 7, 2003, LCDC issued its "Partial Approval and Remand Order 03-WKTASK-001524" that approved most of the Council's decisions, but returned the matter to the Council for completion or revision of three tasks: (1) provide complete data on the number, density and mix of housing types and determine the need for housing types over the next 20 years; (2) add capacity to the UGB for the unmet portion of the need for land for industrial use; and (3) either remove tax lots 1300, 1400 and 1500 in Study Area 62 from the UGB or justify their inclusion; and

WHEREAS, the Council completed its analysis of the number, density and mix of housing types and the need for housing over the planning period 2002-2022 and incorporated its conclusions in a revision to its Housing Needs Analysis; and

WHEREAS, the Council increased the capacity of the UGB both by adding land to the UGB and by revising the Regional Framework Plan and Title 4 of the UGMFP to meet the previously unmet portion of the need for land for industrial use; and

WHEREAS, a change in design type designation of a portion of Study Area 12 added to the UGB on December 5, 2002, by Ordinance No. 02-969B from residential to industrial will help the region accommodate the need for industrial use without reducing the region's residential capacity below the region's residential need; and

WHEREAS, the Council decided to remove tax lots 1300, 1400 and 1500 in Study Area 62 from the UGB; and

WHEREAS, the Council consulted its Metropolitan Policy Advisory Committee and the 24 cities and three counties of the metropolitan region and considered comments and suggestions prior to making this decision; and

WHEREAS, prior to making this decision, the Council sent individual mailed notification to more than 100,000 households in the region and held public hearings on Title 4 and the efficient use of industrial land on December 4 and 11, 2003, public workshops at six locations around the region in March, 2004, on possible amendments to the UGB, and public hearings on the entire matter on April 22 and 29, May 6, May 27, and June 10 and 24, 2004; now, therefore

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

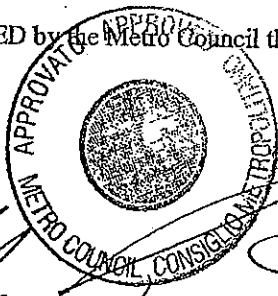
1. Policy 1.12 of the Regional Framework Plan is hereby amended, as indicated in Exhibit A, attached and incorporated into this ordinance, to guide the choice of farmland for addition to the UGB when no higher priority land is available or suitable.
2. Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to improve implementation of Title 4 by cities and counties in the region.
3. The Employment and Industrial Areas Map is hereby amended, as shown in Exhibit C, attached and incorporated into this ordinance, to depict the boundaries of Regionally Significant Industrial Areas pursuant to Policy 1.4.1 of the Regional Framework Plan in order to ensure more efficient use of the areas for industries reliant upon the movement of freight and to protect the function and capacity of freight routes and connectors in the region.
4. The Revised Housing Needs Analysis, January 24, 2003, is hereby further revised, as indicated in Exhibit D; Addendum to Housing Needs Analysis, April 5, 2004, attached and incorporated into this ordinance, to comply with the first item in LCDC's "Partial Approval and Remand Order 03-WKTASK-001524."
5. The Metro UGB is hereby amended to include all or portions of the Study Areas shown on Exhibit E with the designated 2040 Growth Concept design type, and more precisely identified in the Industrial Land Alternative Analysis Study, February, 2004, Item (c) in Appendix A, subject to the conditions set forth in Exhibit F, and to exclude tax lots 1300, 1400 and 1500 in Study Area 62 and the southeast portion of Study Area 9 from the UGB, also shown on Exhibit E and more precisely identified in the Staff Report, "In Consideration of Ordinance No. 04-1040, For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code to increase the capacity of the Boundary to Accommodate Growth in Industrial Employment", Item (a) in Appendix A. Exhibits E and F are attached and incorporated into this ordinance to comply with the second and third items in LCDC's "Partial Approval and Remand Order 03-WKTASK-001524."

6. Ordinance No. 02-969B is hereby amended to change the 2040 Growth Concept design type designation for that 90-acre portion of Study Area 12 that projects from the rest of the study area to the southeast along Highway 26 from 'Inner Neighborhood' to 'Regionally Significant Industrial Area.'
67. The Appendix, attached and incorporated into this ordinance, is hereby adopted in support of the amendments to the UGB, the Regional Framework Plan and the Metro Code in sections 1 through 3 of this ordinance. The following documents comprise the Appendix:
- a. Staff Report, 'In Consideration of Ordinance No. 04-1040, For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code to increase the capacity of the Boundary to Accommodate Growth in Industrial Employment', April 5, 2004.
 - b. 2002-2022 Urban Growth Report: An Employment Land Need Analysis, June 24, 2004 Supplement.
 - c. Industrial Land Alternative Analysis Study, February, 2004.
 - d. Measure 26-29 Technical Report: Assessment of the Impacts of the June, 2004, UGB Expansion on Property Owners.
 - e. Industrial Land Expansion Public Comment Report, March, 2004.
 - f. 'An Assessment of Potential Regionally Significant Industrial Areas', memorandum from Mary Weber to Dick Benner, October 21, 2003.
 - g. 'Recommended Factors for Identifying RSIA's', memorandum from Mary Weber to MTAC, June 30, 2003.
 - h. 'Slopes Constraints on Industrial Development', memorandum from Lydia Neill to David Bragdon, November 25, 2003.
 - i. 'Limited Choices: The Protection of Agricultural Lands and the Expansion of the Metro Area Urban Growth Boundary for Industrial Use', prepared by the Metro Agricultural Lands Technical Workgroup, April, 2004.
 - j. 'Technical Assessment of Reducing Lands within Alternatives Analysis Study Areas', memorandum from Lydia Neill to David Bragdon, October 30, 2003.
 - k. Agriculture at the Edge: A Symposium, October 31, 2003, Summary by Kimi Iboshi Sloop, December, 2003.
 - m. 'Industrial Land Aggregation Methodology, Test and Results', memorandum from Lydia Neill to David Bragdon, September 24, 2003.
 - n. 'Industrial Areas Requested by Local Jurisdictions', memorandum from Tim O'Brien to Lydia Neill, July 29, 2003.

- o. 'Industrial Land Locational and Siting Factors', memorandum from Lydia Neill to David Bragdon, June 9, 2003.
- p. 'A Review of Information Pertaining to Regional Industrial Lands', memorandum from Dick Benner to David Bragdon, January 26, 2004.
- q. Map of Freight Network and Freight Facilities, Metro, November, 2003.
- r. 'Evaluating the Industrial Land Supply with Projected Demand', memorandum from Lydia Neill to David Bragdon, May 14, 2003.
- s. 'Identifying 2003 Industrial Land Alternatives Analysis Study Areas', memorandum from Tim O'Brien to Lydia Neill, July 9, 2003.
- t. 'For the Purpose of Reducing the Land Under Consideration in the 2002 and 2003 Alternatives Analysis for Meet the Remaining Need for Industrial Land through Urban Growth Boundary Expansion', Staff Report, November 18, 2003.
- u. 'Formation of Industrial Neighborhoods', memorandum from Lydia Neill to David Bragdon, October 24, 2003.
- v. 'Developed Lots 5 Acres and Smaller Outside the UGB', memorandum from Amy Rose to Lydia Neill, November 18, 2003.
- w. 'Employment Land Included in the 2002 Urban Growth Boundary Expansion', memorandum from Andy Cotugno to David Bragdon, March 10, 2003.
- x. 'Identifying Additional Land for Industrial Purposes,' memorandum from Tim O'Brien to Lydia Neill, March 7, 2003.
- y. Staff Report, In Consideration of Ordinance No. 04-1040B, For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code to increase the Capacity of the Boundary to Accommodate Growth in Industrial Employment', June 21, 2004.

78. The Findings of Fact and Conclusions of Law in Exhibit G, attached and incorporated into this ordinance, explain how this ordinance complies with state law, the Regional Framework Plan and the Metro Code.

ADOPTED by the Metro Council this 24th day of June, 2004.



[Signature]
David Bragdon, Council President

ATTEST:
[Signature]
Christina Billington, Recording Secretary

Approved as to Form:
[Signature]
Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 04-1040B

**REGIONAL FRAMEWORK PLAN POLICY 1.12
Protection of Agriculture and Forest Resource Land**

~~1.12.1.2.1~~ Agricultural and forest land outside the UGB shall be protected from urbanization, and accounted for in regional economic and development plans, consistent with this Plan. However, Metro recognizes that all the statewide goals, including Statewide Goal 10, and Goal 14, Urbanization, are of equal importance to Goals 3 and 4, which protect agriculture and forest resource lands. These goals represent competing and, some times, conflicting policy interests which need to be balanced.

~~1.12.1 Rural Resource Lands~~

~~———— Rural resource lands outside the UGB that have significant resource value should actively be protected from urbanization. However, not all land zoned for exclusive farm use is of equal agricultural value.~~

1.12.2 When the Council must choose among agricultural lands of the same soil classification for addition to the UGB, the Council shall choose agricultural land deemed less important to the continuation of commercial agriculture in the region.

~~1.12.2 Urban Expansion~~

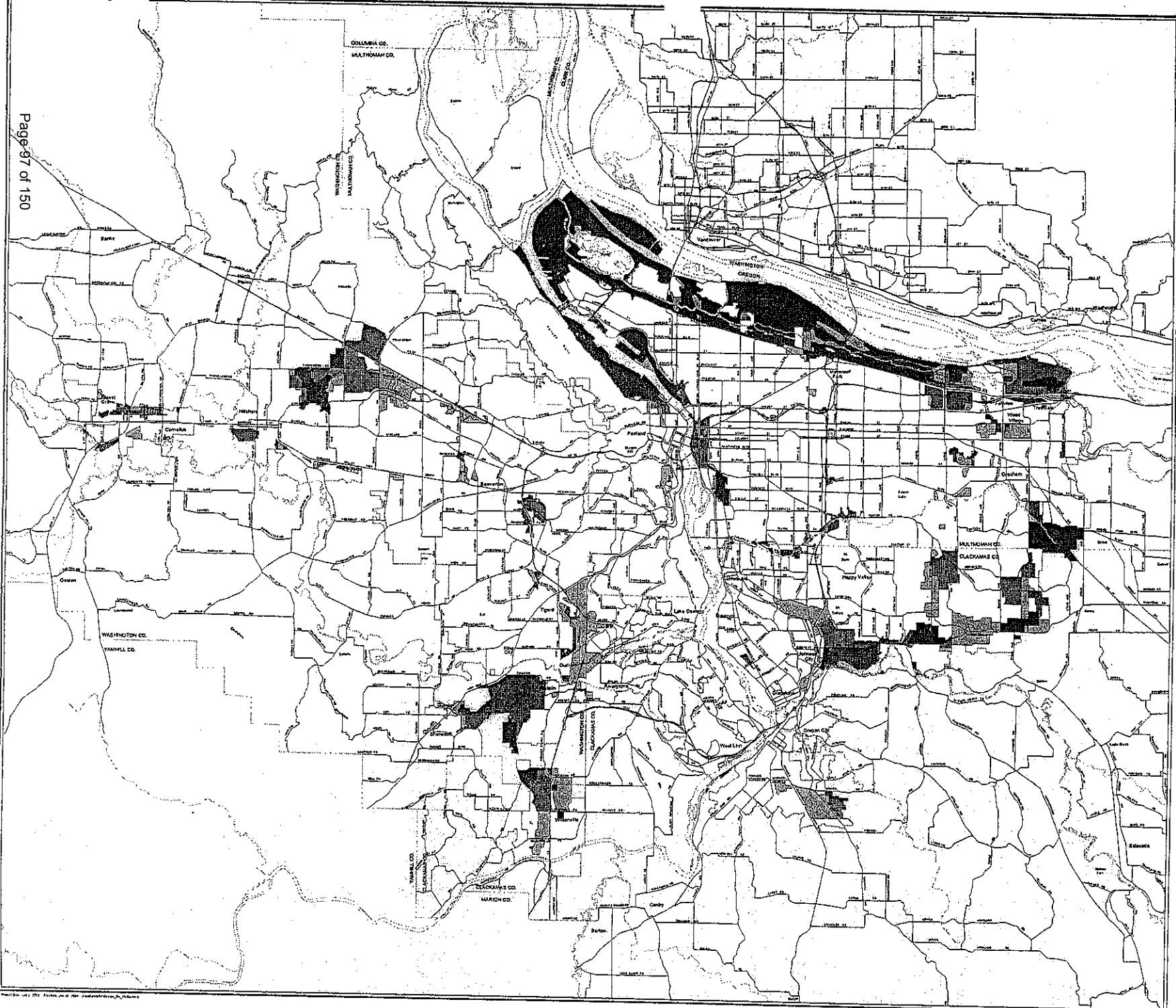
~~———— Expansion of the UGB shall occur in urban reserves, established consistent with the urban rural transition objective. All urban reserves should be planned for future urbanization even if they contain resource lands.~~

1.12.3 Metro shall enter into agreements with neighboring cities and counties to carry out Council policy on protection of agricultural and forest resource policy through the designation of Rural Reserves and other measures.

~~1.12.3 Farm and Forest Practices~~

~~———— Protect and support the ability for farm and forest practices to continue. The designation and management of rural reserves by the Metro Council may help establish this support, consistent with the Growth Concept. Agriculture and forestry require long term certainty of protection from adverse impacts of urbanization in order to promote needed investments.~~

1.12.4 Metro shall work with neighboring counties to provide a high degree of certainty for investment in agriculture in agriculture and forestry and to reduce conflicts between urbanization and agricultural and forest practices.

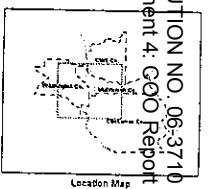


Title 4 Industrial and Employment Areas

Ordinance No. 04-1040B
 Exhibit C
 June 24, 2004

-  Employment Land
-  Industrial Land
-  Regionally Significant Industrial Areas

RESOLUTION NO. 06-3710
 Attachment 4: COO Report



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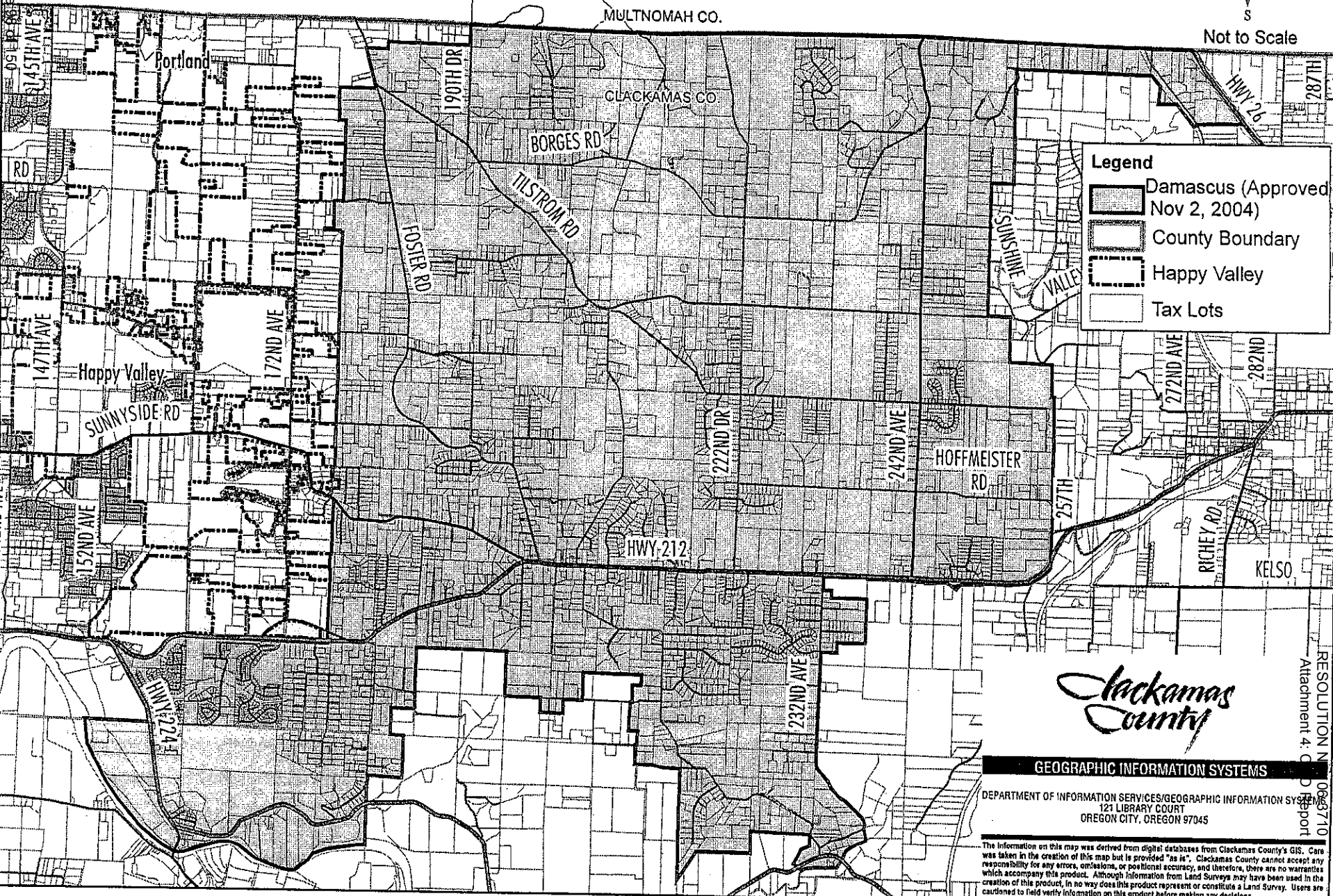
City Boundaries in the Damascus / Boring Concept Plan Study Area

from City of Damascus Website 6/6/2005



Not to Scale

Page 1 of 150



Legend

- Damascus (Approved Nov 2, 2004)
- County Boundary
- Happy Valley
- Tax Lots



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RESOLUTION N
 Attachment 4: C
 068710
 Report

2s3e08

RESOLUTION No. 06-3710

Attachment 4: COO Report

Urban growth boundary

Metro boundary

Area covered by adjacent maps

NOTES

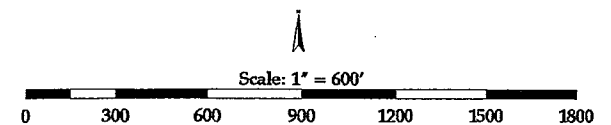
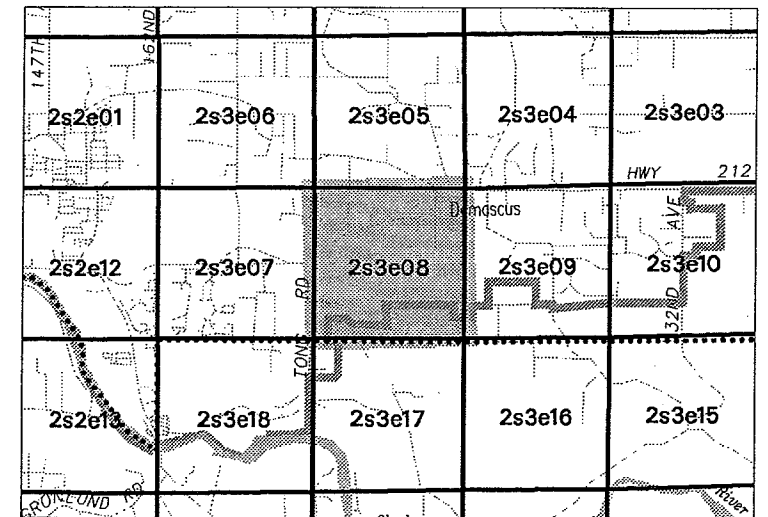
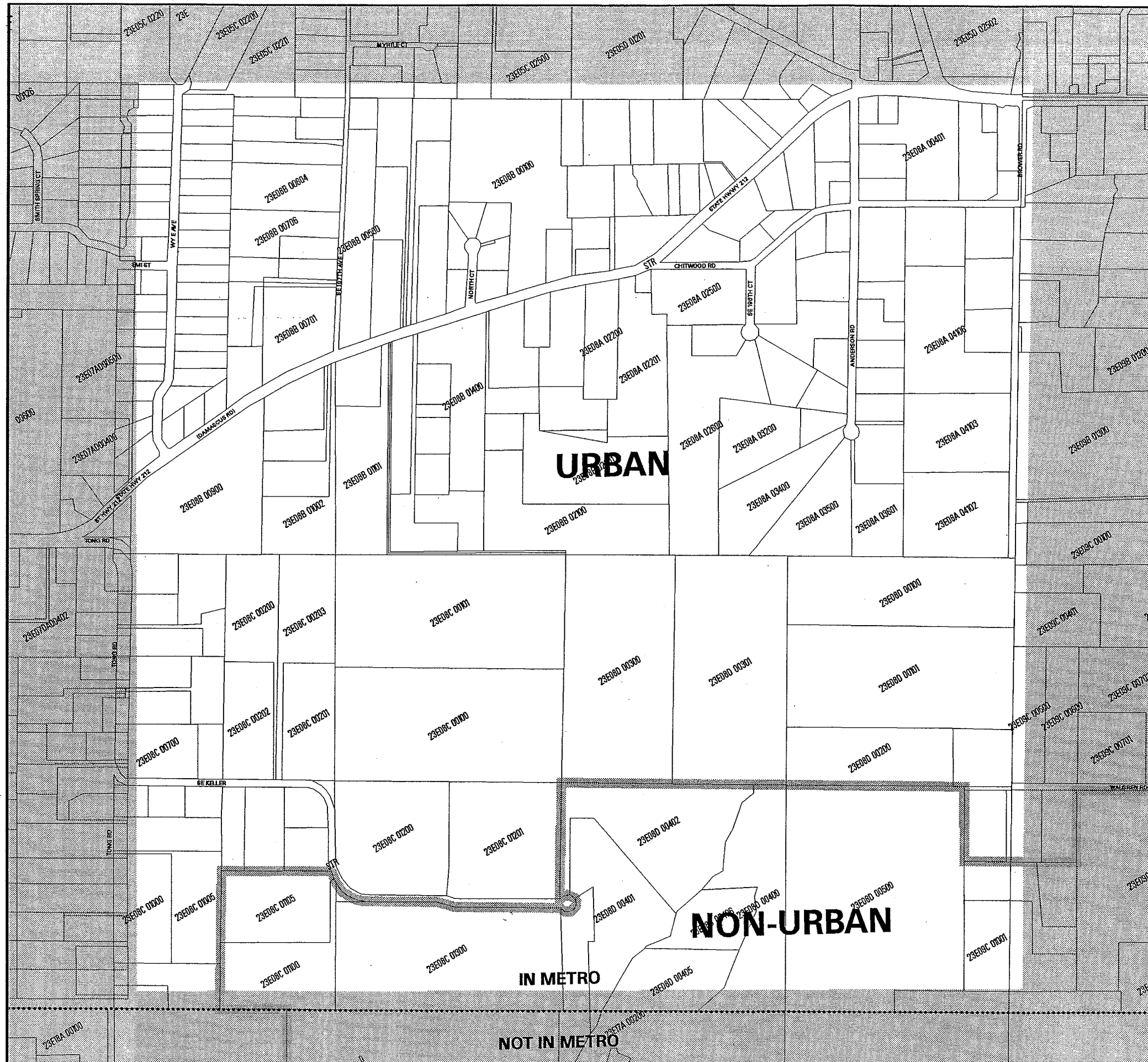
Metro Boundary revisions:
Adopted 1/1/1979

UGB Revisions:

Adopted by 79-77 11/08/1979
Ord. 02-969B 12/05/2002
Ord. 04-1040B 06/24/2004

Metro Ord. No. 01-900A designates this map as the "official" UGB/Metro boundary. It is a copy of the electronic map of the UGB/Metro boundary that has been created as a data layer in Metro's Regional Land Information System. This map sheet covers a one-square mile section and is one of approximately 275 sheets required to show the whole UGB/Metro boundary. The full set of map sheets is maintained in The UGB Map Book at Metro's Data Resource Center.

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METRO

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**Exhibit D to Ordinance No. 04-1040B
Addendum to Housing Needs Analysis
April 5, 2004**

I. INTRODUCTION

The attached three Tables satisfy the requirements of ORS 197.298(5)(a)(E) to provide at least 3 years of data on the number, density and average mix of housing for vacant, partially vacant, redevelopment and infill (refill) and mixed use designated land. Table 5(a)(E) – 1 provides number, density and mix data on refill land for the period 1997 through 2001. Table 5(a)(E) – 2 provides the same data for development on vacant and partially vacant land for the period 1998 through 2001. Table 5(a)(E) – 3 displays the number, density and mix data for development on mixed use land for the period 1998 – 2001.

As noted in the original Housing Needs Analysis submission, the data in the attached Tables are subsets of more aggregated data contained in the original Housing Needs Analysis Report. While interesting and informative, the data in the attached Tables do not contradict the conclusions and actions taken in conjunction with the Urban Growth Report and periodic review. Nor do the data affect the determinations of the overall average density and overall mix of housing types at which residential development must occur in order to meet housing needs through 2022, as depicted in the original Housing Needs Analysis, pages 2 through 7 and Figures 3.1, 3.2, 3.3, 5.1 and 5.3.

The remainder of the report consists of an explanation of methodology and data sources and a synopsis of the data content of each of the tables.

II. METHODOLOGY AND DATA SOURCES

A. Data Sources

In order to retrospectively meet the requirements of State Statute we made maximum use of Metro's RLIS archived data that extend back in some degree to 1995. These data consist of the following elements:

1. Land use data at the tax lot level designating land by vacant, developed and zoning category.
2. County assessor tax lot data showing use, value, sales data, etc.
3. Geo-coded building permit data by building type.
4. Air photos for each year taken approximately in July of each year with a trend of improving resolution level over time.

B. Sampling Approach

We elected to measure the data using a 20% sampling approach so that we could manually audit each of the selected data points to insure accuracy. Machine processing of the data is not possible due to the following sources of measurement error.

1. Building permit geo-coding variability as approximately 70% of building permits actually geo-code exactly to the correct tax lot.

2. Building permit data error due to incomplete reporting, undetected duplicates and inaccurate descriptions of building type, work done and location.
3. Slight registration discrepancies between tax lot maps, air photos and archived land use coverages.
4. Variability between the time a building permit is issued, building takes place and the tax lot is created and enumerated in the County Assessor's tax lot coverage. The practical consequence of this is often that a row house constructed on a 2,500 sq. ft. lot appears to be on a 100,000 sq. ft. plus lot because the subdivision plat is not yet available in the data base.

For multi-family units we modified the 20% sample to include 100% of all building permits for 20 or more units and applied the 20% rate to permits of under 20 units. This avoided the potential sampling errors associated with having a few permits for multi-family of over 100 or more units.

C. Expansion Back to the Population Totals

Because we elected a 100% count of multi-family the sample was not self-weighting. As a consequence after the analysis was complete we used a two phase approach to estimate the building permit population. First, we expanded our sample by building type back to the totals reported in our building permit data base. Secondly, since our building permit data base is incomplete relative to the totals reported to the State and Federal Government, we expanded our building permit data base to match the County totals by building type.

D. Definition of Entities Being Measure

State Statute requires we report on the number and densities by building type of development on "refill", "vacant", "partly vacant" and "mixed use" land. These entities we define and discuss in the context of our RLIS data base and measurement protocols as follows:

1. **Refill:** Housing units developed on land that Metro already considers developed in its data base. Refill is further divided into redevelopment and infill. Redevelopment occurs after an existing building has been removed. Infill is additional building without removal of existing buildings.
 - a. **Method of Measurement:** We measure refill by counting the number of permits that locate on land Metro considers developed in the next fiscal year. For instance for the year "1998" we would compare the RLIS developed and vacant lands inventory for the year ending June 30, 1998 with all building permits issued beginning July 1, 1998 and ending June 30, 1999. Building permits located on land Metro classed vacant as of June 30, 1998 would be classed as development on vacant land and permits landing on land Metro classed as developed as of June 30, 1998 would be classed as refill.
 - b. **Measurement Protocols:** As noted earlier we select a 20% sample of all permits for new residential construction from the RLIS data base for the relevant years (with the exception of the 100% of multi-family permits equal to or exceeding 20 units). Each permit is scrutinized manually by a

trained intern using the RLIS data base and air photos to insure it is properly located and that the permit is for valid construction that did occur as the permit indicated. The analyst then determines whether the permit constitutes refill or vacant land development. Beginning with this study the analyst further classifies the permit to "legal - Urban Growth Report" refill and "economic - MetroScope" refill. This distinction results from the fact that RLIS analysts classify some individual lots in developing green field areas as developed prior to actual development occurring and also classify land cleared for urban renewal areas as vacant. In the former case the economic interpretation is development on new and in the latter case the economic interpretation is refill development. However, to be consistent with the RLIS land accounting system on which the Urban Growth Report is based we classify development the way RLIS accounts for it. On the other hand, the MetroScope land use model used for forecasting and policy evaluation counts green field development as vacant land consumption and urban renewal as refill (redevelopment). Consequently, we report refill data for both classifications.

2. Vacant and partially vacant: In RLIS tax lots that are "completely vacant" (90% vacant) are classed as totally vacant. If the unoccupied portion of a tax lot with development exceeds ½ acre, the unoccupied portion is classed a partially vacant. Green field sites under development may transition from vacant to partially vacant, back to totally vacant to developed and back again to totally vacant depending on the patterns of tax lot subdivision activity and zone changes. This also is true for urban renewal redevelopment sites. There are also a limited number of partially vacant sites in established residential areas where present zoning would allow further subdivision and development.
 - a. *Method of Measurement*: Using the audited building permit sample we machine processed the permits classed as legally vacant to fully vacant and partially vacant. Due to map registration discrepancies the RLIS developed lands coverage for 1997 could not be used so we dropped 600 observations for that year. In addition, another 1400 observations failed the machine screening in that they could not be conclusively classed as either vacant or partially vacant without manual auditing. The 2000 observations excluded from the vacant and partially vacant analysis resulting in the number of units developed on some type of vacant land dropping from 39,000 to 25,000. Though not relevant to the refill study or overall results, discussions with RLIS analysts indicated that the machine filtering process was more likely to exclude partially vacant than vacant tax lots. The bias, resulting from this procedure was minimized, by restating our inventory totals of vacant and partially vacant land using the same screening procedures.
 - b. *Measurement Protocols*: Once the refill data base was reclassified between vacant and partially vacant, we tabulated all the development on vacant land by the type of vacant land it fell on by building type (multi-family and single family) and by lot size.

3. Mixed use development: In our RLIS data base mixed use development is classed as MUC1, MUC2 and MUC3. From the original audited refill data base we selected all the records of building permits that fell on land classed as MUC1, MUC2 or MUC3 regardless of whether it was refill, vacant or partially vacant. Again matching the RLIS land use inventory for 1997 proved problematic for machine selection procedures and this year was excluded. The resulting selection process produced 402 observations representing over 4,600 units constructed from 1998 through 2001.

E. Years of Data Included in the Retrospective Analysis

We included building permit data from 12/97 through 6/2002 that could be reliably recovered and geo-coded from our existing RLIS data base. This time period allows us to evaluate 5 years of recent history in regard to "refill" and 4 years of history for "vacant", "partly vacant" and "mixed use" land.

III. SYNOPSIS OF RESULTS

A. Data Table 5E1: Refill Numbers by Type and Density 1997 – 2001

The data displayed on Table 5E1 show the amount of residential development of vacant and refill land that occurred during the period 1997 through 2001. During that period nearly 54,000 dwelling units located within the Metro region.¹ Of the 54,000 dwelling units, 26.5% occurred as refill according to the legal – Urban Growth Report definition. Using the economic-MetroScope definition 30.4% were refill reflecting the increasing importance of redevelopment in urban renewal areas and centers. Nearly 20,000 of the units constructed were multi-family with a legal refill rate of 31.5% and an economic rate of 40.2%. 34,000 units constructed were single family with a legal refill rate of 23.6% and an economic rate of 24.7%. Average lot sizes are also reported for every category.² For multi-family average lot sizes range from 1,800 to 2,000 sq. ft. depending on category. For single family average lot sizes range from 6,600 to 8,400 sq. ft. with refill development generally in the 6,500 – 7,000 sq. ft. range.

B. Table 5E1(a): Median Lot Size Data

This table provides additional and somewhat more meaningful weighted median lot size data. When we compare the average lot sizes in Table 5E1, we observe substantive differences in most cases. In general the median lot sizes are 30% less for vacant single family, 25% more for vacant multi-family, 25% less for refill single family and 30% less for refill multi-family. For all types combined the weighted median is 27% less for vacant and 26% less for refill. Assuming that the present median is a superior measure of long run average lot size, the combined weighted median of 4,417 sq. ft. should be used to determine vacant land consumption. This figure combined with the 39,619 units located on legally vacant land over the 5 year period implies a land consumption of slightly over 4,000 net buildable acres. Using a plausible range of gross to net conversion factors of .55 - .7 yields a gross buildable acre consumption of 1,150 to 1,450 acres per year, within the range estimated in the original Housing Needs Analysis.³

¹ Real Estate Report for Metropolitan Portland, Oregon, Spring 2003. Numbers are based on building permits summarized at the County level and only approximate the UGB. This procedure slightly overstates UGB land consumption.

² Average as contrasted to median inflates land consumption as the measure is substantially influenced by a few large lot single family permits on urban land still zoned RRFU that will subsequently be subdivided. RLIS procedure of assuming ½ acre of land consumption for permits on non-subdivided land also inflates average lot size.

³ While appearing precise, attempting to estimate long run densities and land consumption from individual lot sizes involves substantial uncertainties. The most serious of these is the gross to net conversion factor as we only observe

C. Table 5E2: Housing on Fully Vacant and Partially Vacant Land

The accompanying table presents the required data on development on a subcategory of vacant land – fully vacant land and land partially vacant. As noted in the methods section, fully or partially vacant is classified relative to the tax lot existing at the time of the RLIS vacant and developed lands inventory. As also noted in the methods section, due to procedures and quirks of the land development and reporting process land may be fully vacant, partially vacant or developed refill land several times during the development process. In addition as a result of attempting to categorize and measure “partially vacant” we discover that the acreage totals are extremely volatile and sensitive to whatever criteria we use in the machine query process to differ partial from full. Very minor discrepancies between vacant land coverages and assessor’s tax lot coverages can dramatically change the inventories of fully and partially vacant. In the methods section we note that we use the same selection criteria for both the inventory totals and the classification of the refill sample into fully and partially vacant.

Of the over 39,000 legal vacant units located in the Metro Region for the period 1997 – 2001 we were able to reliably classify 25,000 units covering the period 1998 – 2001. Of these 15,500 (62.6%) were on fully vacant land and 9,300 (37.4%) were on partially vacant land. Looking at *Table 5E2(a) Fully Vacant and Partially Vacant Land Inventory 1998 – 2001* (replacing Table 4.1AB in the original Housing Needs Analysis) that on average partially vacant comprised 34.3% of the vacant land inventory. In sum development on partially vacant land overall has been occurring at roughly the same rate as development on fully vacant land and appears to not be materially different.

At the same time we recognize that there are a number of instances where partially vacant land shares a tax lot with a high valued single family home. In order to better understand the likelihood of further development under these circumstances, we used our single family sales price study to estimate the “optimum lot size” by neighborhood and house size. We define optimum lot size as the lot size at which at the loss of value to a homeowner by selling off part of his lot just equals the amount he gains by selling the land. If the homeowner sells more land, the value of his house declines more than he gains by the sale. Conversely, if he sells less land, the land unsold contributes less to the value of his home than the amount he would receive were he to sell it. Making that calculation for Dunthorpe we found that a \$1,000,000 home on 5 acres would have a positive incentive to sell off land down to about 1 – 1.5 acres. By comparison, a \$600,000 home on 1 acre would have an incentive to sell off no more than ½ acre. Significantly, in 2000 the average Dunthorpe selling price was \$590,000 for a 3,100 sq. ft. house on a 22,000 sq. ft. lot, almost exactly the optimum lot size determined from our estimates. On average then we would expect Dunthorpe to have no additional capacity other than that resulting from subdivision of lots at least 1 acre to sizes no smaller than ½ acre. Optimum lot size calculations vary dramatically by neighborhood. For instance, the average house in the Powellhurst-Gilbert neighborhood has a positive incentive to sell off land down to and sometimes below a 5,000 sq. ft. lot minimum. This is more often the case within the Metro region notwithstanding the exceptionally high value areas such as Dunthorpe.

D. Table 5E3: Housing on Mixed Use Designated Land

As required by statute the accompanying table shows development for the period 1998 – 2001 that occurred on land Metro considered at the time of development to be MUC1, MUC2 and MUC3. As pointed out in the methods section, the mixed use inventory includes refill, vacant and partially vacant

net buildable land consumption and cannot measure land lost to streets, parks, schools, freeways, etc. The second drawback is that average lot size measures are always exaggerated by a few large lot placements (often of manufactured homes) done by private individuals that will undoubtedly be further subdivided sometime in the future.

lands. Over the 4 year period we noted 4,600 housing units developed of which 3,000 were multi-family and 1,600 were single family. Average lot size for multi-family was 1,400 sq. ft. and single family lot size was 2,300 sq. ft. Table 5E3(a) depicts the 2040 Plan mixed use capacity as of 8/98. Total mixed use capacity at that time was roughly 23,000 units. Mixed use development constituted about 11% of residential development for the 4 year period 98 – 2001. As of 1998, mixed use capacity of 23,000 units constituted 12% of the capacity 193,000 dwelling unit capacity estimated at the time. As was the case with vacant and partially vacant, this sub-classification of land type seems to produce housing at a rate commensurate with its proportion of the land inventory.

Exhibit 5E1 : Housing on Vacant and Refill Land - Number, Type and Density 1997 Through 2001

Vacant/Refill Status	Year					Grand Total
	1997	1998	1999	2000	2001	
Legal - Urban Growth Report Basis						
Vacant Legal						
Multi Family	4,412	3,761	2,407	1,824	1,274	13,678
Average Lot Size	2,208	2,021	813	1,244	2,502	1,810
Single Family	4,594	5,670	4,814	5,425	5,439	25,941
Average Lot Size	8,516	8,611	10,104	6,292	8,161	8,292
Total All Types	9,005	9,431	7,221	7,249	6,713	39,619
Average Lot Size	5,425	5,983	7,007	5,022	7,087	6,054
Refill Legal						
Multi Family	2,228	1,567	918	503	1,059	6,275
Average Lot Size	2,729	2,042	1,178	1,353	1,499	2,013
Single Family	2,446	1,451	1,994	958	1,170	8,020
Average Lot Size	6,017	7,505	5,787	7,521	9,260	6,882
Total All Types	4,675	3,018	2,912	1,461	2,229	14,295
Average Lot Size	4,450	4,669	4,334	5,397	5,573	4,744
Percent of Development Refill	34.2%	24.2%	28.7%	16.8%	24.9%	26.5%
Economic - MetroScope Basis						
Vacant Economic						
Multi Family	4,300	3,103	1,983	1,484	1,068	11,938
Average Lot Size	2,260	2,124	955	1,245	2,304	1,885
Single Family	5,196	4,962	5,466	4,503	5,455	25,582
Average Lot Size	8,352	9,035	9,614	6,463	8,178	8,384
Total All Types	9,496	8,065	7,449	5,986	6,523	37,520
Average Lot Size	5,593	6,376	7,309	5,169	7,216	6,317
Refill Economic						
Multi Family	2,340	2,225	1,342	843	1,265	8,015
Average Lot Size	2,608	1,894	852	1,309	1,830	1,856
Single Family	1,844	2,159	1,342	1,880	1,154	8,379
Average Lot Size	5,664	6,891	5,686	6,510	9,196	6,660
Total All Types	4,184	4,384	2,684	2,724	2,419	16,394
Average Lot Size	3,955	4,355	3,269	4,899	5,344	4,311
Percent of Development Refill	30.6%	35.2%	26.5%	31.3%	27.0%	30.4%

**Exhibit 5E1(a) : Housing on Vacant and Refill Land -
Median Lot Size 1997 - 2001**

Year	Legal - Urban Growth Report Basis				2001 Totals	
	1997	1998	1999	2000		
Single Family						
Median Lot Size Vacant	5,936	5,887	6,021	5,268	5,001	5,605
Median Lot Size Refill	5,406	5,628	4,001	5,301	5,047	5,032
Multi Family						
Median Lot Size Vacant	3,550	2,348	352	825	2,377	2,242
Median Lot Size Refill	1,630	2,318	953	408	534	1,384
Total All Types						
Median Lot Size Vacant	4,684	4,480	4,159	4,105	4,562	4,417
Median Lot Size Refill	3,930	3,902	3,003	3,851	2,724	3,506
Economic - MetroScope Basis						
Single Family						
Median Lot Size Vacant	5,955	5,897	6,000	5,277	5,026	5,636
Median Lot Size Refill	5,196	5,569	3,177	5,267	5,001	4,958
Multi Family						
Median Lot Size Vacant	3,562	2,367	385	933	2,377	2,420
Median Lot Size Refill	1,100	2,007	485	404	1,172	1,131
Total All Types						
Median Lot Size Vacant	4,835	4,555	4,628	4,515	4,688	4,660
Median Lot Size Refill	3,031	3,739	1,731	3,218	2,816	2,997

**Exhibit 5E3 : Housing on Mixed Use Designated Land by
Number, Type and Density 1998 Through 2001**

Land Use Class	Year				Grand Total
	1998	1999	2000	2001	
Mixed Use One					
Multi Family	1,116	367	262	321	2,066
Average Lot Size	1,834	1,427	1,437	2,313	1,786
Single Family	226	100	304	737	1,367
Average Lot Size	3,127	4,386	2,482	1,946	2,439
Mixed Use Two					
Multi Family	41	153	132	-	326
Average Lot Size	2,277	252	1,090	-	846
Single Family	40	87	55	25	207
Average Lot Size	1,919	2,159	1,265	1,574	1,803
Mixed Use Three					
Multi Family	133	203	146	107	590
Average Lot Size	1,605	345	250	100	561
Single Family	37	23	21	-	80
Average Lot Size	2,108	1,841	2,144	-	2,043
Total Mixed Use					
Multi Family	1,290	723	541	428	2,982
Average Lot Size	1,824	874	1,032	1,758	1,441
Single Family	303	210	380	763	1,655
Average Lot Size	2,845	3,187	2,287	1,934	2,340
Total All Types	1,593	933	920	1,190	4,637
Average Lot Size	2,018	1,394	1,549	1,870	1,762

Exhibit 5E3(a)_: Mixed Use 2040 Plan Designated Land Capacity 8/98
(Includes Capacity of Vacant, Infill and Redevelopment Land & Areas)

Plan Category	DU Capacity
MUC 1	
MUC 2	10,320
MUC 3	7,250
	4,650
Total Capacity	22,220

Source: Compiled from Urban Growth Report Addendum, August 1998, page 40.
MUC 1 includes MUEA capacity.

Exhibit 5E2 : Housing on Fully Vacant and Partially Vacant Land - Number, Type and Density 1998 Through 2001

Land Vacancy Class	Year				2001 Grand Total
	1998	1999	2000		
Fully Vacant					
Multi Family	1,012	1,910	714	801	4,438
Average Lot Size	2,383	871	1,720	2,784	1,698
Single Family	2,554	2,894	2,808	2,951	11,206
Average Lot Size	6,517	6,743	5,684	5,327	6,054
Total	3,566	4,804	3,522	3,752	15,644
Average Lot Size	5,344	4,408	4,880	4,784	4,818
Partly Vacant					
Multi Family	2,496	319	271	126	3,213
Average Lot Size	1,847	638	778	1,339	1,617
Single Family	2,219	1,159	1,501	1,244	6,122
Average Lot Size	5,984	7,764	5,624	4,622	5,956
Total	4,715	1,478	1,772	1,370	9,335
Average Lot Size	3,794	6,227	4,882	4,320	4,463
Combined					
Multi Family	3,508	2,229	986	927	7,651
Average Lot Size	2,002	837	1,460	2,588	1,664
Single Family	4,773	4,053	4,309	4,194	17,329
Average Lot Size	6,269	7,035	5,663	5,118	6,019
Total	8,281	6,282	5,295	5,122	24,979
Average Lot Size	4,461	4,836	4,881	4,660	4,685
Percent Units on Fully Vacant:					62.6%
Percent Units on Partly Vacant:					37.4%

Exhibit 5E2(a)_ : Housing on Fully Vacant and Partially Vacant Land - Inventory of Fully Vacant and Partially Vacant All Land Classes

Land Vacancy Class	Year				2001 4 Year Average	Percent
	1998	1999	2000			
Fully Vacant	33,422	30,820	28,789	26,631	29,916	65.7%
Partly Vacant	16,678	15,776	15,401	14,738	15,648	34.3%
Total	50,100	46,596	44,190	41,369	45,564	100.0%

Filter Criteria: Full - 90% of year 1 tax lot is vacant

Maybe - Vacant area is <90% of year 1 taxlot and \geq 5,000 sq. ft. and <1/2 acre

Part - Vacant area is <90% of year 1 taxlot and \geq 1/2 acre

Sliver - vacant area is <90% of year 1 taxlot and < 5,000 sq. ft.

Exhibit F to Ordinance No. 04-1040B
Conditions on Addition of Land to the UGB

I. GENERAL CONDITIONS APPLICABLE TO ALL LANDS ADDED TO THE UGB

A. The city or county with land use planning responsibility for a study area included in the UGB shall complete the planning required by Metro Code Title 11, Urban Growth Management Functional Plan ("UGMFP"), section 3.07.1120 ("Title 11 planning") for the area. Unless otherwise stated in specific conditions below, the city or county shall complete Title 11 planning within two years after the effective date of this ordinance. Specific conditions below identify the city or county responsible for each study area.

B. The city or county with land use planning responsibility for a study area included in the UGB, as specified below, shall apply the 2040 Growth Concept design types shown on Exhibit E of this ordinance to the planning required by Title 11 for the study area.

C. The city or county with land use planning responsibility for a study area included in the UGB shall apply interim protection standards in Metro Code Title 11, UGMFP, section 3.07.1110, to the study area until the effective date of the comprehensive plan provisions and land use regulations adopted to implement Title 11.

D. In Title 11 planning, each city or county with land use planning responsibility for a study area included in the UGB shall recommend appropriate long-range boundaries for consideration by the Council in future expansions of the UGB or designation of urban reserves pursuant to 660 Oregon Administrative Rules Division 21.

E. Each city or county with land use planning responsibility for an area included in the UGB by this ordinance shall adopt provisions – such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery – in its land use regulations to enhance compatibility between urban uses in the UGB and agricultural practices on adjacent land outside the UGB zoned for farm or forest use.

F. Each city or county with land use planning responsibility for a study area included in the UGB shall apply Title 4 of the UGMFP to those portions of the study area designated Regionally Significant Industrial Area ("RSIA"), Industrial Area or Employment Area on the 2040 Growth Concept Map (Exhibit C). If the Council places a specific condition on a RSIA below, the city or county shall apply the more restrictive condition.

G. In the application of statewide planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) to Title 11 planning, each city and county with land use responsibility for a study area included in the UGB shall comply with those provisions of Title 3 of the UGMFP acknowledged by the Land Conservation and Development Commission ("LCDC") to comply with Goal 5. If LCDC has not acknowledged those provisions of Title 3 intended to comply with Goal 5 by the deadline for completion of Title 11 planning, the city or county shall consider, in the city or county's application of Goal 5 to its Title 11 planning, any inventory of regionally significant Goal 5 resources and any preliminary decisions to allow, limit or prohibit conflicting uses of those resources that is adopted by resolution of the Metro Council.

H. Each city and county shall apply the Transportation Planning Rule (OAR 660 Div 012) in the planning required by subsections F (transportation plan) and J (urban growth diagram) of Title 11.

II. SPECIFIC CONDITIONS FOR PARTICULAR AREAS

A. Damascus Area

1. Clackamas County and Metro shall complete Title 11 planning requirements through the incorporation of this area into the greater Damascus/Boring Concept Plan planning effort currently underway. This planning shall be completed within the same time frame as specified in Ordinance No. 02-969B.
2. In the planning required by Title 11, subsections (A) and (F) of section 3.07.1120, Clackamas County or any future governing body responsible for the area shall provide for annexation of those portions of the area whose planned capacity is sufficient to support transit to the Tri-met District.
3. In the planning required by Title 11, subsections (A) and (F) of section 3.07.1120, Clackamas County or any future governing body responsible for the area shall provide for annexation of those portions of the area whose planned capacity is sufficient to support transit to the Tri-met District.

B. Beavercreek Area

1. Clackamas County or, upon annexation to Oregon City, the city and county, with Metro, shall complete Title 11 planning for the area.
2. This area shall be planned in conjunction with the adjoining tax lot added to the UGB in 2002, under Ordinance No. 02-969B.

~~C. Borland Area North of I-205~~

- ~~1. Clackamas County or, upon annexation to the City of Tualatin, the city and county, in coordination with the Cities of Lake Oswego, Tualatin, and West Linn and Metro, shall complete Title 11 planning within four years following the effective date of Ordinance No. 04-1040. The county and city, in conjunction with Lake Oswego and West Linn and Metro shall recommend long range boundaries in the Stafford Basin and general use designations for consideration by the Council in future expansions of the UGB.~~
- ~~2. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.~~

~~DC. Tualatin Area~~

- ~~1. Washington County or, upon annexation to the Cities of Tualatin or Wilsonville, the cities, in conjunction with Metro, shall complete Title 11 planning within four two years following the selection of the right-of-way alignment for the I-5/99W Connector, or within seven years of the effective date of Ordinance No. 04-1040, whichever occurs earlier.~~

2. Title 11 planning shall incorporate the general location of the projected right of way ~~location~~ alignment for the I-5/99W connector and the Tonquin Trail as shown on the 2004 Regional Transportation Plan. If the selected right-of-way for the connector follows the approximate course of the "South Alignment," as shown on the Region 2040 Growth Concept Map, as amended by Ordinance No. 03-1014, October 15, 2003, the portion of the Tualatin Area that lies north of the right-of-way shall be designated "Inner/Outer Neighborhood" on the Growth Concept Map; the portion that lies south shall be designated "Industrial."
3. The governments responsible for Title 11 planning shall consider using the I-5/99W connector as a boundary between the city limits of the City of Tualatin and the City of Wilsonville in this area.

ED. Quarry Area

1. Washington County or, upon annexation to the cities of Tualatin or Sherwood, the cities, and Metro shall complete Title 11 planning for the area.
2. Title 11 planning shall, if possible, be coordinated with the adjoining area that was included in the UGB in 2002 under Ordinance No. 02-969B.
3. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.
4. Title 11 planning shall incorporate the general location of the projected right-of-way for the Tonquin Trail as shown on the 2004 Regional Transportation Plan.

FE. Coffee Creek Area

1. Washington and Clackamas Counties or, upon annexation of the area to the ~~City~~ cities of Tualatin or Wilsonville, the city, and in conjunction with Metro, shall complete the Title 11 planning for the area within ~~four~~ two years following the selection of the right-of-way alignment for the I-5/99W Connector, or within seven years of the effective date of Ordinance No. 04-1040B, whichever occurs earlier.
2. ~~The concept~~ Title 11 planning shall incorporate the general location of the projected right of way location for the I-5/99W connector and the Tonquin Trail as shown on the 2004 Regional Transportation Plan.

~~G. Wilsonville East Area~~

- ~~1. Clackamas County or, upon annexation of the area to the City of Wilsonville, the city, and Metro shall complete the Title 11 planning for the area within two years of the effective date of Ordinance No. 04-1040.~~
- ~~2. In the planning required by Title 11 a buffer shall be incorporated to mitigate any adverse effects of locating industrial uses adjacent to residential uses located southwest of the area.~~

- ~~3. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.~~

HF. Cornelius Area

1. Washington County, or, upon annexation of the area to the City of Cornelius, the city and Metro shall complete the Title 11 planning for the area.

IG. Helvetia Area

1. Washington County, or upon annexation of the area to the City of Hillsboro, the city, and Metro shall complete the Title 11 planning for the area.
2. Until the effective date of new regulations adopted pursuant to Title 11, the city or county with land use planning responsibility for the area shall not allow the division of a lot or parcel that is 50 acres or larger into lots or parcels smaller than 50 acres.

**Exhibit G to Ordinance No. 04-1040B
Findings of Facts, Conclusions of Law**

Introduction

The Metro Council adopted Ordinance 04-1040B in response to LCDC Partial Approval and Remand Order 03-WKTASK-001524, entered July 7, 2003. LCDC's order followed its review of seven ordinances (Nos. 02-969B, 02-983B, 02-984A, 02-985A, 02-986A, 02-987A and 02-990A) adopted by the Metro Council as part of Periodic Review Work Task 2. The findings of fact and conclusions of law that explained how those ordinances complied with state planning laws, together with the supplemental findings and conclusions set forth in this exhibit, are part of the explanation how Ordinance No. 04-1040B complies with those laws. These findings also explain how Ordinance No. 04-1040B complies with the three requirements of the remand order.

REQUIREMENT NO. 1:

REMAND ORDER ON SUBTASK 17: COMPLETE THE ACCOMMODATION OF THE NEED FOR THE INDUSTRIAL LAND NEED COMPONENT OF EMPLOYMENT LAND THAT REMAINS APPROVAL OF WORK TASK 2.

I. GENERAL FINDINGS FOR TASK 2 REMAND DECISION ON UGB

A. Coordination with Local Governments

Metro worked closely with the local governments and special districts that comprise the metropolitan region. The Metro Charter provides for a Metropolitan Policy Advisory Committee ("MPAC") composed generally of representatives of local governments, special districts and school districts in the region. MPAC reviewed all elements of this periodic review decision. MPAC made recommendations to the Metro Council on most portions of the decision. All recommendations were forwarded formally to the Council and the Council responded. Metro Councilors and staff held many meetings with local elected officials in the year since LCDC's remand (July 7, 2003).

The record of this decision includes correspondence between local governments and Metro, including Metro's responses to concerns and requests from local governments and local districts related to industrial land.

Metro accommodated the requests and concerns of local governments as much as it could, consistent with state planning laws and its own Regional Framework Plan (Policy 1.11) and Regional Transportation Plan (Policy 2.0).

B. Citizen Involvement

These findings address Goal 1 and Regional Framework Plan Policy 1.13.

To gather public input on this Task 2 remand decision, Metro conducted an extensive citizen involvement effort. The findings for Ordinance No. 02-969B set forth Metro's effort leading to adoption of that ordinance on December 5, 2002. Those findings are incorporated here. Since that time, the Metro notified by mail nearly 75,000 people of the pending decision to expand the UGB for industrial land. Metro also provided individual mailed notice to nearly 5,000 landowners of possible revisions to Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan ("UGMFP"). In March, 2004, Metro held six workshops on industrial land throughout the region, attended by some 1,200 people. Finally, the Council held public hearings on the UGB expansion and Title 4 on December 4 and December 11 of 2003 and April 22 and 29, May 6 and 27, and June 10 and 24 of 2004.

These efforts bring Metro into compliance with Goal 1 and Metro's Regional Framework Plan. More important, this work to involve Metro area citizens has contributed greatly to their understanding of the importance of this set of decisions for the region and have brought Metro invaluable comment on options available to it.

C. Need for Land

These findings address ORS 197.296; ORS 197.732(1)(c)(A); Goal 2, Exceptions, Criterion (c)(1); Oregon Administrative Rules 660-004-0010(1)(c)(B)(i) and 660-004-0020(2)(a); Goal 9 (local plan policies); Goal 10; Goal 14, Factors 1 and 2; Metro Regional Framework Plan ("RFP") Policies 1.2, 1.4, 1.4.1 and 1.4.2; and Metro Code 3.01.020(b)(1) and (2).

The findings for Ordinance No. 02-969B set forth Metro's analysis of the need for land for new jobs through the year 2022. The Urban Growth Report-Employment ("UGR-E") provides the details of that analysis. The analysis indicates that the region will need approximately 14,240 acres to accommodate an additional 355,000 jobs (all employment, commercial and industrial). Based upon new information that came to the Council during hearings on Title 4 revisions and UGB expansion, Metro completed a supplement (Ordinance No. 04-1040B, Appendix A, Item b) to the UGR-E that describes emerging trends in industrial use.

Leading to adoption of the ordinances that expanded the UGB in December, 2002, Metro analyzed the capacity of the existing UGB to accommodate this employment growth. The analysis determined that the UGB contained a surplus of land (759.6 acres) for commercial employment and a deficit of land (5,684.9 acres) for industrial development. The UGR-E provides the details of this analysis.

Following adoption of the December, 2002, ordinances, Metro analyzed the capacity of the expanded UGB. Those ordinances left Metro with a deficit of 1,968 acres of industrial land and a surplus of 393 acres of commercial land. From this analysis, the Council concluded that the UGB, as expanded by ordinances in December, 2002, did not have sufficient capacity to accommodate the remaining unmet need for industrial land. This deficit was one reason for LCDC's July 7, 2003, remand order directing Metro to complete the accommodation of this need for industrial land.

Based upon interviews with industrial developers, brokers and consultants, the Regional Industrial Land Survey ("RILS") and Metro's UGR-E, Metro refined the need for industrial land. Not just any land will satisfy the need for industrial use. Metro defined the need as 1,968 acres of land composed generally of less than 10 percent slope that lies either within two miles of a freeway interchange or within one mile of an existing industrial area. RILS and the UGR-E also calculate the need for parcels of varying sizes by sectors of the industrial economy. Table 13 of the UGR-E shows a need for 14 parcels 50 acres or larger for the warehouse and distribution and tech/flex sectors (page 25).

D. Alternatives: Increase Capacity of the UGB

These findings address ORS 197.732(c)(B); Goal 14, Factors 3 and 4; Goal 2, Exceptions, Criterion 2; OAR 660-004-0010(1)(B)(ii) and 660-004-0020(2)(b); Metro Code 3.01.020(b)(1)(E); and RFP Policies 1.2, 1.3, 1.4, 1.6, 1.7, 1.8 and 1.9.

To address the shortfall in employment capacity, Metro considered measures to increase the efficiency of land use within the UGB designated for employment. Metro's UGMFP Title 4, first adopted in 1996, limited non-employment uses in areas designated Industrial and Employment. Analysis of results of local implementation of Title 4 indicates that commercial uses and other non-industrial uses are converting land designated for industrial use to non-industrial use.

In response to this information, the Metro Council amended the RFP in Ordinance No. 02-969B in December, 2002, to improve the protection of the existing industrial land base. The Council created a new 2040 Growth Concept design type – “Regionally Significant Industrial Land” (“RSIA”) – and revised Title 4 to establish new limitations on commercial office and commercial retail uses in RSIA’s. Metro estimated that these new measures would reduce the shortfall in industrial land by 1,400 acres by reducing encroachment by commercial uses. The Council counted this “savings” of industrial land in its determination that the deficit of industrial land following the December, 2002, expansion of the UGB was 1,968 net acres.

Following adoption of the December ordinances, the Council began implementation of the new policy and code, including the mapping of RSIA’s. The process of developing the map with cities and counties in the region uncovered implementation difficulties with the provisions of the new Title 4 that limited commercial retail and office uses. With Ordinance No. 04-1040B, the Council once again revised Title 4 with two objectives: greater flexibility for traded-sector companies and retention of the 1,400-acre “savings” estimated from the December, 2002, revisions. Based upon the analysis of Title 4 revisions in the supplement to the UGR-E (Ordinance No. 04-1040B, Appendix A, Item b), the Council estimates that the revisions, in combination with conditions placed upon areas added to the UGB for industrial use, will continue to “save” 1,400 acres of industrial land from intrusion by commercial uses.

During hearings on the remand from LCDC, the Council received testimony that an increasing number of industrial jobs is finding space in office buildings rather than in traditional industrial buildings. The Council relied upon this testimony to revise Title 4 limitations on offices in industrial areas. The Council also relied upon the testimony to apply the 393-acre surplus of commercial land taken into the UGB by the December, 2002, ordinances to the need for 1,968 acres of industrial land. The Council assumed that offices in the region’s designated Employment Areas, Centers, Corridors, Station Communities and Mains Streets would absorb industrial jobs. This assumption reduced the need for industrial land from 1,968 to 1,575 net acres.

Also during the hearings, the cities of Wilsonville, Oregon City and Fairview brought news of recent plan amendments (adopted after completion of Metro’s inventory of industrial land) adding land to the industrial land supply. The Council concluded that the land added by Wilsonville (127 acres) and Oregon City (74 acres) are actually available for industrial use, subject to timing and infrastructure requirements. The Council concluded that the Fairview land, though designation industrial in the city’s comprehensive plan, is not yet appropriately zoned to make it available for industrial use. These actions reduced the need for industrial land from 1,575 to 1,374 net acres.

The City of Gresham requested a change to the 2040 Growth Concept Map and the Title 4 Employment and Industrial Areas map for a 90-acre tract that is part of Study Area 12 and adjacent to land added to the UGB in December, 2002, for industrial use. The city says further planning work on its part has revealed that some 20 acres of the tract are suitable for industrial use. The Council makes this change in Ordinance No. 04-1040B, reducing the need from 1,374 to 1,354.

In a further effort to accommodate industrial development more efficiently within the UGB, the Council discovered that it had assumed a commercial development refill rate of 50 percent, lower than the most recently observed rate of 52 percent. For the reasons stated above, the Council concludes that this infill and re-development of lands in designated Employment Areas, Centers, Corridors, Station Communities and Mains Streets will accommodate some of the increasing number of industrial jobs that is locating in offices rather than factories or other traditional industrial buildings. Correction of the commercial refill rate assumption reduces the need for industrial land from 1,354 to 1,180 acres.

E. Alternatives: Expand the UGB

These findings address ORS 197.732(c)(B), (C) and (D) and Goal 2, Exceptions; ORS 197.298(1); Goal 11; Goal 14, Factors 3-7; OAR 660-004-0010(1) and 660-004-0020(2); RFP Policies 1.2, 1.3.1, 1.4, 1.4.1, 1.7, 1.7.2, 1.9, 1.12.1, 1.12.2 and 5.1.1; Regional Transportation Plan Policy 3.0 and Metro Code 3.01.020(b)(3) through (7) and 3.01.020(d)

The measures taken by the Council to increase the capacity of the existing UGB for industrial use, described above leave an unmet need for industrial land of 1,180 acres.

Metro began the search for the most appropriate land for inclusion in the UGB by applying the priorities in ORS 197.298(1). Because Metro has not re-designated "urban reserve" land since its 1997 designation was invalidated on appeal, the highest priority for addition of land is exception land.

Metro first included for consideration all exception land that was studied for inclusion in the December, 2002, ordinances, but not included at that time (59,263 acres). Metro then expanded the search to consider all other land, resource land included, that met the siting characteristics that help define the need for industrial land (less than 10 percent slope and within two miles of a freeway interchange or one mile of an existing industrial area (9,071 acres). In all, Metro looked at approximately 68,000 acres to find the most appropriate land.

Once Metro mapped land by its statutory priority, Metro analyzed the suitability of the land for industrial use, considering the locational factors of Goal 14, the consequences and compatibility criteria of the Goal 2 and statutory exceptions process, the policies of the Regional Framework Plan (RFP) and the criteria in the Metro Code that are based upon Goal 14. This analysis is set forth in the Alternatives Analysis Study, Item (c) in Appendix A of Ordinance No. 04-1040B and subsequent staff reports [Appendix A, Items (a) and (y)].

The Alternatives Analysis and testimony from the hearings gave the Council few easy or obvious choices among the lands it considered. The land most suitable for the types of industrial use forecast in the region for the next 20 years is flat land near freeway interchanges or near existing industrial areas. In addition, the region needs parcels 50 acres or larger for the warehouse and distribution and tech/flex sectors. The land most likely to meet these needs at the perimeter of the UGB is agricultural land, the last priority for inclusion under ORS 197.298(1).

The highest priority for inclusion, under the priority statute, where no urban reserves have been designated, is exception land. But the character of most exception areas makes them unable to fill the region's needs for industrial use. The great majority of exception land outside the UGB is designated for residential use, and most of that is settled with residences. Parcels are generally small (five acres and smaller), the topography is usually rolling and often steep, and streams, small floodplains and wildlife habitat are common. And residents, as evidenced by testimony at Council hearings, are often vigorously opposed to industrial intrusions into what they consider their neighborhoods.

The Council excluded from further consideration those exception lands that lie further than two miles from a freeway interchange and more than one mile from existing industries for the reason that these areas cannot meet the identified need for industrial land. The Staff Report [Appendix A, Item (a)] describes these specific areas in detail at pages 13 to 18.

The Council excluded other study areas (or portions of them) from further consideration even though they could meet the identified need (less than 10 percent slope and either within two miles from a freeway interchange or within one mile from existing industries) because they are unsuitable for industrial use. Further analysis showed that some combination of parcelization, existing development, limitations on use

imposed by Title 3 of the UGMFP (Water Quality, Flood Management and Fish and Wildlife Conservation), poor road access, difficulty in providing public services and negative effects of urbanization on nearby agricultural practices renders the areas unsuitable for industrial use. Portions of the areas contain designated farm or forest land. The Staff Report [Appendix A, Item (a)] describes these specific areas in detail at pages 18 to 25 (and portions of other areas at pages 13 to 18).

The Council also excluded those exception areas that are not contiguous to the UGB, or to areas added to the UGB for industrial use, and do not contain enough suitable land to comprise a minimum of 300 gross acres. Based upon an analysis of industrial areas within the pre-expansion UGB and reasoning set forth in "Formation of Industrial Neighborhoods", memorandum from Lydia Neill to David Bragdon, October 24, 2003, the Council concludes that these small areas cannot satisfy the need for industrial land.

The Council looked next to resource land, beginning with land of lowest capability. The Council included 354 acres (236 net acres) designated for agriculture in the Quarry Study Area, composed predominantly of the poorest soils (Class VII) in the region. Other land with poor soils in the vicinity were rejected due to steep slopes. The Council included 63 acres (30 net acres) designated for forestry in the Beaver Creek Study Area composed of Class IV and VI soils and 102 acres (69 net acres) of Class III and IV soils in the Damascus West Study Area. No other land with soil capability lower than Class II can meet the need for industrial use identified by the Council.

Finally, the Council turned to the many lands under consideration with predominantly Class II soils. To choose among thousands of acres of this flat farmland near urban industrial areas or near freeway interchanges, the Council considered the locational factors of Goal 14 and policies in its Regional Framework Plan ("RFP") and Regional Transportation Plan ("RTP"). Further, the Council sought advice from a group of farmers and agriculturalists in the three counties, assembled by the Oregon Department of Agriculture ("ODA"). This group submitted a report to the Council entitled "Limited Choices: The Protection of Agricultural Lands and the Expansion of the Metro Area Urban Growth Boundary for Industrial Use." [Appendix A, Item (i).] Preliminary guidance from ODA led the Council to consider an amendment to Policy 1.12 of the RFP on agricultural land, adopted and applied in Ordinance No. 04-1040B: "When the Council must choose among agricultural lands of the same soil classification for addition to the UGB, the Council shall choose agricultural land deemed less important to the continuation of commercial agriculture in the region." (Exhibit A.)

The Council finds that the region will be able to urbanize the lands it has added to the UGB in an efficient and orderly fashion. The Council concludes that the overall consequences of urbanization of these lands are acceptable, especially given the protections in place in the RFP and Metro Code for sensitive resources. Through mitigation measures required by the conditions in Exhibit F, the Council believes it can achieve compatibility between urbanization of the land added to the UGB and adjacent land outside the UGB.

The Council also believes that it is able to maintain separations between communities at the urban fringe sufficient to allow each community to retain a sense of place. The Council chose ridgelines, streams, power lines, roads and property lines to define the boundaries of the UGB in an effort to provide a distinct boundary and a clear transition between urban and rural uses.

The Council also finds that the lands it added to the UGB for industrial use contribute to a compact urban form. The lands are adjacent to the existing UGB. Many involve exception lands that are already partially urbanized and contain some components of public facilities needed to serve urban industrial uses. The Council rejected some areas of exception land that extend far from the UGB and would require long extensions of linear services such as sewer, water and stormwater lines. The Council chose land that adheres closely to siting characteristics needed by the industries likely to grow during the planning period: proximity

to existing industrial areas and accessibility to freeway interchanges. These choices contribute to the region's urban form which, among other things, calls for siting uses with higher densities (commercial and residential) in Centers and other design types served by high-capacity public transit.

Combined with areas added to the UGB for employment in the December, 2002, periodic review ordinances, areas added by Ordinance No. 04-1040B for industrial use are distributed round the region. Most of the jobs land was added to the east side of the region in December, 2002. This ordinance adds industrial land mostly to the south and west sides of the region. In particular, addition of 262 acres north of Cornelius will add jobs, income, investment and tax capacity to a part of the region with disproportionately little of those resources.

F. Water Quality

Each local government responsible for an area added to the UGB must complete the planning requirements of Title 11, Urban Growth Management Functional Plan ("UGMFP"), including compliance with the water quality provisions of Title 3 of the UGMFP.

G. Areas Subject to Natural Disasters and Hazards

The Council has excluded environmentally constrained areas from the inventory of buildable land (see UGRs) and from its calculation of the housing and jobs capacity of each study area (see Alternatives Analysis). Each local government responsible for an area added to the UGB must complete the planning requirements of Title 11, Urban Growth Management Functional Plan ("UGMFP"), including compliance with Title 3 of the UGMFP on floodplains and erosion control.

The Council considered the best information available on known hazards, including earthquake hazard. The study areas with the highest earthquake hazard have been rejected. The are small portions of several study areas with known earthquake hazards added to the UGB. Local governments responsible for Title 11 planning are required by that title (and Goal 7) to take these portions into account in their comprehensive plan amendments.

H. Economic Development

As part of Task 2 of periodic review, Metro reviewed the economic development elements of the comprehensive plans of each of the 24 cities and three counties that comprise the metro area. Metro used the review in its determination of the region's need for employment land and for coordination with local governments of its choices to add land to the UGB for employment purposes.

Revisions to Title 4 (Industrial and Other Employment Areas) of the UGMFP and the conditions placed upon lands added to the UGB (Exhibit F of Ordinance No. 04-1040B and exhibits to December, 2002, ordinances) add significant protection to sites designated for industrial use, both those added to the UGB and those within the UGB prior to expansion, to help ensure their availability for that purpose.

Inclusion of these areas adds 1,920 acres (1,047 net acres) to the UGB for industrial use. Combined with the efficiency measures described in Section D of these Findings (Alternatives: Increase Capacity of the UGB), above, and actions taken in December, 2002, these additions to the UGB accommodate approximately 99 percent of the need for industrial land [identified in the 2002-2022 Urban Growth Report: An Employment Land Need Analysis (9,366 net acres)]. Given the unavoidable imprecision of the many assumptions that underlie the determination of need for industrial land – the population forecast; the employment capture rate; the industrial refill rate; employment density (particularly given changes in building types used by industry over time); the rate of encroachment by non-industrial uses; and the vintage

industrial relocation rate -- the Council concludes that its actions in the December, 2002, ordinances and in this Ordinance No. 04-1040B provide a 20-year supply of industrial land for the region and comply with part 2 (periodic review Subtask 17) of LCDC's Partial Approval and Remand Order 03-WKTASK-001524, July 7, 2003.

II. SPECIFIC FINDINGS FOR PARTICULAR AREAS ADDED TO UGB IN TASK 2 REMAND DECISION

These findings address ORS 197.298; ORS 197.732(1)(c)(B), (C) and (D); Goal 2, Exceptions, Criteria (c)(2), (3) and (4); Oregon Administrative Rules (OAR) 660-004-0010(1)(B)(ii), (iii) and (iv); OAR 660-004-0020(2)(b), (c) and (d); Goal 5; Goal 11; Goal 12; Goal 14, Factors 3 through 7; Metro Code 3.01.020(b)(3) through (7) and 3.01.020(d); Metro RFP Policies 1.2, 1.3, 1.4, 1.6, 1.7, 1.11 and 1.12; and Regional Transportation Plan Policies 2.0, 3.0, 4.0 and 14.0.

A. Damascus West

The Council relies upon the facts and analysis in the Industrial Land Alternative Analysis Study [Appendix A, Item(c) in Ordinance No. 04-1040B, pp. 21-23; 111; A-1 – A-4] and the Staff Report [Appendix A, Item (a), p. 27] to support its conclusion that addition of a portion of Damascus West will provide for an orderly and efficient transition from rural to urban land use. The Council chose this area of resource land because it contains a concentration of larger parcels (five parcels between 10 and 20 acres). Parcels of this range are needed for the types of industries Metro expects will grow during the planning period (UGR-E, p. 25) and are generally unavailable in exception areas. Also, soils in the area are Class III and IV, of lower capability than other resource land under consideration. In addition, the area lies within a ground-water restricted area designated by the Oregon Department of Water Resources. Finally, it occupies a small notch that extends into land within the UGB and is relatively isolated by topography and forested land from other agricultural lands to the south, as noted in the report of the Metro Agricultural Lands Technical Workgroup led by the Oregon Department of Agriculture [“Limited Choices: The Protection of Agricultural Lands and the Expansion of the Metro Area Urban Growth Boundary for Industrial Use”, Appendix A, Item (i)].

1. Orderly Services

The Council relies upon the Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Alternative Analysis Study (Appendix A, Item 6, pages 111 and Table A-2, respectively) for its determination that these services can be provided to the Damascus West area in an orderly and economic manner by extending services from existing serviced areas. Condition IIA(1) of Exhibit F calls for transportation and public facility and service plans within the same four years allowed for Title 11 planning of the entire Damascus area by Condition IIA(1) of Exhibit M of Ordinance No. 02-969B.

The Alternative Analysis Study (p. 20) sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the larger Damascus Study Area. Serviceability generally ranges from “easy” to “difficult” to serve (Table 1, p. 111) and compares favorably with areas not included (such as Borland Road South, Norwood/Stafford and Wilsonville West). Transportation services will be only moderately difficult to provide for reasons set forth in the Alternative Analysis Study, p. 21.

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above for its conclusion that the area can urbanize efficiently, particularly knowing that Damascus West will be planned in conjunction with the greater Damascus area added to the UGB in December, 2002. The Council

also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on the Damascus West area set forth in the Alternative Analysis Study, pp. 21-22 and Table A-3. The analysis indicates that the consequences will be low, especially considering the requirements of Title 11 of the UGMFP that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the area subject to Title 3 of the UGMFP and the conditions in Exhibit F of Ordinance No. 04-1040B.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning considered Metro's adopted Goal 5 inventory during its planning (see Condition IG, Exhibit F). The local governments will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the Damascus West area would have low adverse consequences for nearby agriculture (Alternative Analysis Study, p. 21; Table A-4). This is, in part, due to the facts that the area occupies a small notch that extends into land within the UGB and is relatively isolated by topography and forested land from other agricultural lands to the south, as noted in the report of the Metro Agricultural Lands Technical Workgroup led by the Oregon Department of Agriculture ["Limited Choices: The Protection of Agricultural Lands and the Expansion of the Metro Area Urban Growth Boundary for Industrial Use", Appendix A, Item (i)]. Ordinance No. 04-1040B, Exhibit F, imposes Condition IE upon urbanization of Damascus West to reduce conflict and improve compatibility between urban use in the area and agricultural use on land to the south.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the Damascus West area protected by Clackamas County in its acknowledged comprehensive plan (p. 22). The county will be responsible for protecting these resources in the area when it amends its comprehensive plan and zoning ordinance to implement expansion of the UGB. Condition IG of Exhibit F requires the county to consider Metro's inventory of Goal 5 resources in their application of Goal 5 to the Damascus area. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires Clackamas County to protect water quality and floodplains in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the county to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county planning for the area.

6. Public Utilities and Services

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Clackamas County from upzoning and from dividing land into resulting lots or parcels smaller than 20 acres until the county revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public

facilities such as sanitary sewers, storm sewers and water lines for the area. Metro and the county began this work with the evaluation of the serviceability of the Damascus area in the Alternative Analysis Study (pages 20-21 and 111).

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Damascus West area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Clackamas County from upzoning and from land divisions into resulting lots or parcels smaller than 20 acres in the area until the county revises its comprehensive plans and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county to develop conceptual transportation plans and urban growth diagrams with the general locations of arterial, collector and essential local streets for the area. Metro and Clackamas County began this work with the evaluation of the serviceability of the area in the Alternative Analysis Study (p. 21 and Table A-2) and consideration of how to provide services as part of the analysis required to satisfy Goal 14, factors 3 and 4.

Metro's 2000 Regional Transportation Plan (RTP) anticipated inclusion of the area within the UGB. The plan's "Priority System" of planned transportation facilities shows improvements planned for the area to serve anticipated growth. Among the improvements is the Sunrise Highway, a likely alignment for which (shown on the 2040 Growth Concept Map) borders the portion of the Damascus West Study Area included by this ordinance. The "Financially Constrained System" includes improvements that will add capacity to East Sunnyside Road near the included area (see discussion of RTP below).

8. Regional Framework Plan

The area lies within ½-mile of Damascus Town Center and will provide additional employment to support the center. The area will not only provide employment opportunities for new residents of the Damascus area, but also improve the ratio between jobs and housing in the east side of the region.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan adopted a "Priority System" of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements are the "East Multnomah County Transportation Projects" and the "Pleasant Valley and Damascus Transportation Projects" that will provide the basic transportation services to the area (pages 5-49 to 5-57). Figures 1.4, 1.12, 1.16, 1.17, 1.18 and 1.19 of the RTP show how the region's street design, motor vehicle, public transportation, freight, bicycle and pedestrian systems will extend into the Damascus area.

B. Beavercreek

The Council relies upon the facts and analysis in the Alternative Analyses Study [2003 in Appendix A, Item(d) in Ordinance No. 04-1040B, pp. 32-34; 111; A-1 – A-4] and the Staff Report [Appendix A, Item (a), p. 25] to support its conclusion that addition of a portion of the Beavercreek area will provide for an orderly and efficient transition from rural to urban land use. The Council added this single tract, zoned for forest use but occupied by a portion of a larger golf course, in part because the Council included the other half of the golf course in the UGB by Ordinance No. 02-969B in December, 2002 (as part of Task 2), and

designated it for industrial use. The predominant soils on the tract are Class IV and VI. This parcel (63 acres; 30 net acres) helps satisfy the identified need for large parcels (see UGR-E, page 25), particularly in combination with the other part of the golf course included in December, 2002.

1. Orderly Services

The Council relies upon the Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Alternative Analysis Study (Appendix A, Item 6, pages 111 and Table A-2, respectively) for its determination that these services can be provided to this portion of the Beaver creek area in an orderly and economic manner by extending services from existing serviced areas. Condition IA of Exhibit F calls for transportation and public facility and service plans within two years. Condition IIB(2) specifies that Title 11 planning of the area be done in conjunction with Title 11 planning for the adjoining area added to the UGB by Ordinance No. 02-969B.

The Alternative Analysis Study (p. 32-33) sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the larger Beaver creek area. The developable portion of the area included in the UGB adjoins and will be served by the same providers that will serve the area added to the UGB in December, 2002. Serviceability generally ranges from "easy" to "difficult" to serve (Table 1, p. 111) and compares favorably with areas not included (such as Borland Road South, Norwood/Stafford and Wilsonville West). Table A-2 shows transportation services for the larger Beaver creek area to be difficult. However, for the portion of Beaver creek added, transportation services will be the same as those provided to the adjoining property added to the UGB in December, 2002.

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above for its conclusion that the area can urbanize efficiently, particularly knowing that this portion of the Beaver creek area will be planned in conjunction with the portion added to the UGB and designated for industrial use in December, 2002. Both portions can be urbanized more efficiently if the portions are planned and urbanized together.

The Council also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on this portion of the Beaver creek area set forth in the Industrial Land Alternative Analysis Study, p. 34 and Table A-3). The analysis indicates that the consequences will be high if the Council were to include the entire Beaver creek study area (2,540 acres). But Ordinance No. 04-1040B includes only a single, 63-acre tract, half of a golf course the other half of which was included in the UGB by Ordinance No. 02-969B. Title 11 of the UGMFP requires that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the tract subject to Title 3 of the UGMFP and the conditions in Exhibit F of this ordinance.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning considered Metro's adopted Goal 5 inventory during its planning (see Condition IG, Exhibit F). The local governments will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the Beaver Creek area would have moderate adverse consequences for nearby agriculture (p. 111). There will be little effect on agriculture from urbanization of this small portion of the area, however, because the tract itself is part of a golf course, and there are no nearby agricultural activities.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the larger Beaver Creek area protected by Clackamas County in its acknowledged comprehensive plan (page 34). The single portion of the larger area added to the UGB by this ordinance contains no inventoried Goal 5 sites protected by Clackamas County. Condition IG of Exhibit F requires the county to consider Metro's inventory of Goal 5 resources in their application of Goal 5 to the small portion of the Beaver Creek area included in the UGB. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires Clackamas County to protect water quality and floodplains in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the counties to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county planning for the area.

6. Public Facilities and Services

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Clackamas County or Oregon City from upzoning and from dividing land into resulting lots or parcels smaller than 20 acres until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public facilities such as sanitary sewers, storm sewers and water lines for the area. Metro, the county and the city began this work with the evaluation of the serviceability of the Beaver Creek area in the Alternative Analysis Study done as part of Ordinance No.02-969B (pages 108-09; A-9, A-13;) and the Industrial Land Alternative Analysis Study done as part of Ordinance No. 04-1040A (pages 25, 32-33 and 111).

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Beaver Creek area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Clackamas County or Oregon City from upzoning and from land divisions into resulting lots or parcels smaller than 20 acres in the area until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop a conceptual transportation plan and urban growth diagram with the general locations of arterial, collector and essential local streets for the area. Metro, the county and the city began this work with the evaluation of the serviceability of the Beaver Creek area in the Alternative Analysis done as part of Ordinance No.02-969B (pages 108-09; A-9, A-15-19) and the Analysis done as part of Ordinance No. 04-1040B (pages 25 and 33 and A-2).

The City of Oregon City indicates that the Beaver Creek area can be provided with transportation services. The small included portion adjoins an area that is more serviceable than other portions of the larger Beaver Creek area considered by the Council. It is contiguous to the city and can be served in an orderly manner.

8. Regional Framework Plan

This small addition of industrial land (63 acres) will be planned in combination with adjoining industrial land added by Ordinance No. 02-969B to comprise a more efficient industrial area. The area will provide employment to support the Oregon City Regional Center.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan adopted a "Priority System" of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements is the "Highway 213 Corridor Study" to complete a long-term traffic management plan and identify projects to implement the plan (pages 5-59 to 5-61).

C. Quarry (Partial)

The Council relies upon the facts and analysis in the Industrial Land Alternative Analyses Study [Appendix A, Item(c) in Ordinance No. 04-1040B, pp. 64-66; 111; A-1 – A-4] and the Staff Report [Appendix A, Item (a), pp. 26-27] to support its conclusion that addition of a portion of the Quarry Study Area will provide for an orderly and efficient transition from rural to urban land use. The Council chose this area of resource land because it contains a concentration of larger parcels, relatively few of which are developed with residences. Parcels of this range are needed for the types of industries Metro expects will grow during the planning period (UGR-E, p. 25) and are generally unavailable in exception areas. Also, soils in the area are predominantly Class VII, of lower capability than other resource land under consideration. Significant portions are devoted to quarry operations, which have removed soils altogether. There are major quarry operations adjoining this area to the east and elsewhere nearby. There is also significant industrial development and zoning north and east of the Quarry area. See "Perfect for Industry", prepared by Davis, Wright, Tremaine, LLP, April 29, 2004. The Council included one of the quarry areas in the UGB in Ordinance No. 02-990A for industrial use. Some agricultural activity takes place in the northern section of this area, but it is isolated from other areas devoted to agriculture by quarry operations and other nonfarm activities [Tualatin Valley Sportsmens Club (gun club), for example].

1. Orderly Services

The Council relies upon the Quarry Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Industrial Land Alternative Analysis Study (Appendix A, Item (c), pages 111 and Table A-2, respectively) for its determination that urban services can be provided to the Quarry area in an orderly and economic manner by extending services from existing serviced areas. Condition IIE(2) of Exhibit F calls for coordination of transportation and public facility and service planning for this area with the adjoining area added to the UGB for industrial use on December 12, 2002.

The Alternatives Analysis (p. 64-65) sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the Quarry Study Area. Serviceability ranges from "easy" to "moderately difficult" to serve (Table 1, p. 111) and compares favorably with areas not included (such as Borland Road South, Norwood/Stafford and Wilsonville West). Transportation services would be easy to provide for reasons set forth in the Alternative Analysis Study, p. 65.

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above for its conclusion that the area can urbanize efficiently, particularly knowing that this portion of the Quarry Study Area will be planned in conjunction with the quarry area to the east, added to the UGB and designated for industrial use in December, 2002. This portion lies close to existing services and Tualatin-Sherwood and Oregon Roads. Both portions can be urbanized more efficiently if the portions are planned and urbanized together.

The Council also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on this portion of the Quarry Study Area set forth in the Alternative Analysis Study, p. 65-66 and Table A-3). The analysis indicates that the environmental consequences will be low. In addition, Title 11 of the UGMFP requires that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the area subject to Title 3 of the UGMFP and the conditions in Exhibit F of this ordinance.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning considered Metro's adopted Goal 5 inventory during its planning (see Condition I G, Exhibit F). The local governments will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the Quarry Study Area would have few adverse consequences for nearby agriculture. The area has the UGB on three sides and quarry operations to the east and southeast. The portion devoted to agriculture is in the northwest portion, isolated from agricultural operations south of the quarries.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the Quarry Study Area protected by Washington County in its acknowledged comprehensive plan (page 65-66). Significant portions of the area are identified as aggregate sites in the county's Goal 5 inventory and are protected by aggregate overlays. Under Metro's Title 11, current county land use regulations will remain in place until the county, or one of the cities (Tualatin or Sherwood), adopts new plan provisions and land use regulations to allow industrial uses in the area, at which time the county or city will apply Goal 5 to the area and re-consider the decision to protect the quarries under Goal 5.

Condition IG of Exhibit F requires the county or cities to consider Metro's inventory of Goal 5 resources in its application of Goal 5 to the Quarry area included in the UGB. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires the county to protect water quality and wetlands in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the county to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county or city planning for the area.

6. Public Facilities and Services

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Sherwood or Tualatin from upzoning and from dividing land into resulting lots or parcels smaller than 20 acres until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public facilities such as sanitary sewers, storm sewers and water lines for the area. Metro, the county and the cities began this work with the evaluation of the serviceability of the Quarry Study Area in the Alternative Analysis done as part of Ordinance No.02-969B (pages 161-63; A-9) and the Analysis done as part of Ordinance No. 04-1040B (pages 64-65 and 111).

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Quarry Study Area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Sherwood or Tualatin from upzoning and from land divisions into resulting lots or parcels smaller than 20 acres in the area until the county or city revises its comprehensive plan and land use regulations to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop a conceptual transportation plan and urban growth diagram with the general locations of arterial, collector and essential local streets for the area. Metro and the county and cities began this work with the evaluation of the serviceability of the area in the Alternatives Analysis done as part of Ordinances No.02-969B (pages 108-09; A-9, A-15-19) and 990A and the Analysis done as part of Ordinance No. 04-1040B (pages 64-65 and A-2). The cities indicate a willingness to serve the Quarry area with transportation services pending the determination of service boundaries.

8. Regional Framework Plan

This addition of industrial land will be planned in coordination with adjoining industrial land to the east added by Ordinance No. 02-990A to comprise a more efficient industrial area. The area will provide employment to support the Sherwood and Tualatin Town Centers. The Quarry area runs along the Tualatin-Sherwood Road within two miles of the two centers. Given that the added portion of the Quarry area is suitable for the types of industry likely to grow in the future, the Council includes the area notwithstanding that this part of the region is relatively well-endowed with employment.

By adding the Quarry area to the UGB, following addition of the quarry area to the east, Metro will be bringing a "notch" into the UGB that lies between the two cities of Sherwood and Tualatin. This keeps the form of the region compact and efficient.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan adopted a "Priority System" of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements are the "The Tualatin-Sherwood Major Investment Study"; to complete environmental design for the I-5 to 99W principal arterial connector, and the "Tualatin-Sherwood

Connector”, to construct the four-lane tollway connection (pages 5-65 to 5-67). Although a final corridor for this facility has not yet been chosen, it is almost certain that it will pass less than a mile from the south border of the Quarry area.

D. Coffee Creek (partial)

The Council relies upon the facts and analysis in the Alternatives Analyses [Appendix A, Item(c) in Ordinance No. 04-1040B, pp. 58-60; 111; A-1 – A-4] and the Staff Report [Appendix A, Item (a), pp. 26] to support its conclusion that addition of a portion of the Coffee Creek Study Area [264 acres (97 net acres) of 442 in the study area] will provide for an orderly and efficient transition from rural to urban land use. The Council chooses this portion because it is almost entirely exception land (there is a 4.6-acre tract of resource at the northern edge), it can be planned in conjunction with land added to the UGB in December, 2002, for industrial use, urban services are available in the vicinity, and urbanization will have no effect on agricultural practices on adjacent land due to its isolation from agricultural activities.

1. Orderly Services

The Council relies upon the Coffee Creek Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Industrial Land Alternative Analysis Study (Appendix A, Item 6, pages 111 and Table A-2, respectively) for its determination that urban services can be provided to the Quarry area in an orderly and economic manner by extending services from existing serviced areas. Condition IIF(1) of Exhibit F allows four years for Title 11 planning for this area so that planning for urban services can be done in conjunction with such planning for the adjoining area added to the UGB for industrial use on December 5, 2002.

The Alternative Analysis Study sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the Coffee Creek area (p. 58-60; Table 1, p. 111). Serviceability ranges from “moderate” to “difficult” to serve and compares favorably with areas not included (such as Borland Road South and Wilsonville West).

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above for its conclusion that the area can urbanize efficiently, knowing that this portion of the Coffee Creek Study Area will be planned in conjunction with the area to the east, added to the UGB and designated for industrial use in December, 2002. The area lies adjacent to a principal north-south rail line that will make industrial use and movement of freight more efficient.

The Council also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on this portion of the Coffee Creek area set forth in the Alternative Analysis Study, p. 58-60 and Table A-3). Because the Council included only the easternmost portion of the study area – the portion that borders the UGB on the west – the adverse consequences will be reduced. Title 11 of the UGMFP requires that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the area subject to Title 3 of the UGMFP and the conditions in Exhibit F of this ordinance.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning considered Metro's adopted Goal 5 inventory during its planning (see Condition IG, Exhibit F, Ordinance No. 04-1040B). The local government will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the included portion of the Coffee Creek area would have no adverse consequences for nearby agriculture (p. 111). The area has quarry operations nearby and is isolated from commercial agricultural activity by stream drainages.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the Coffee Creek Study Area protected by Washington County in its acknowledged comprehensive plan (p. 60). The quarries in the area are protected by aggregate overlays by Washington County. Under Metro's Title 11, current county land use regulations will remain in place until the county, or the City of Wilsonville or Tualatin, adopts new plan provisions and land use regulations to allow industrial uses in the area, at which time the county or city will apply Goal 5 to the area and re-consider the decision to protect the quarries under Goal 5.

Condition IG of Exhibit F requires the county or city to consider Metro's inventory of Goal 5 resources in its application of Goal 5 to the portion of Coffee Creek area included in the UGB. The area contains streams, wetlands and floodplains. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires the county or city to protect water quality and wetlands in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the county or city to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county or city planning for the area.

6. Public Facilities and Services

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Wilsonville or Tualatin from upzoning and from dividing land into resulting lots or parcels smaller than 20 acres until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of the area; and (2) requires the county or city to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public facilities such as sanitary sewers, storm sewers and water lines for the area.

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Coffee Creek Study Area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits the county or city from upzoning and from land divisions into resulting lots or parcels smaller than 20 acres in the area until the county or city revises its comprehensive plan and zoning ordinance to authorize urbanization of the area; and (2) requires the county or city to develop conceptual transportation plans and urban growth diagrams with the general locations of arterial, collector and essential local streets for the area.

8. Regional Framework Plan

This addition of industrial land will be planned in combination with adjoining industrial land to the east added by Ordinance No. 02-969B to comprise a more efficient industrial area. The Coffee Creek Study Area will provide employment to support the Tualatin and Wilsonville Town Centers, to the north and south respectively. Given that the developable portion of the area is exception land and is suitable for the types of industry likely to grow in the future, the Council includes the Coffee Creek area notwithstanding that this part of the region is relatively well-endowed with employment.

Adding the Coffee Creek area to the UGB, lying between and adjacent to the Cities of Tualatin and Wilsonville, following addition of the area to the east, keeps the form of the region compact and efficient.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan ("RTP") adopted a "Priority System" of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements are improvements to Boones Ferry Road from Durham Road in the north to Elligsen Road in the south, east of the Coffee Creek Study Area.

The RTP also includes "The Tualatin-Sherwood Major Investment Study", to complete environmental design for the I-5 to 99W principal arterial connector, and the "Tualatin-Sherwood Connector", to construct the four-lane tollway connection (pages 5-65 to 5-67). Although a final corridor for this facility has not yet been chosen, it is almost certain that it will pass through or just to the north of the Coffee Creek area, likely enhancing its access to I-5. Finally, the principal north-south rail line that lies along the eastern boundary of the area will offer an additional mode of transport for movement of freight in the area.

E. Tualatin

The Council relies upon the facts and analysis in the Industrial Land Alternative Analyses Study [Appendix A, Item(c) in Ordinance No. 04-1040B, pp. 61-63; 111; A-1 – A-4] and the Staff Reports [Appendix A, Item (a), pp. 27-28] to support its conclusion that addition of a portion of the Tualatin Study Area will provide for an orderly and efficient transition from rural to urban land use. The Council chose this area because it is exception land (rural residential and rural industrial) with characteristics that make it suitable for industrial use. It lies within two miles of the I-5 corridor and within one mile of an existing industrial area, and portions of the area are relatively flat. These characteristics render it the most suitable exception area under consideration for warehousing and distribution, a significant industrial need facing the region.

The City of Tualatin and many residents of the area expressed concern about compatibility between industrial use and residential neighborhoods at the south end of the city. They have also worried about preserving an opportunity to choose an alignment between Tualatin and Wilsonville for the I-5/99W Connector; the south alignment for this facility passes through the northern portion of the Tualatin Study Area.

In response to these concerns, the Council placed several conditions upon addition of this area to the UGB. First, the Council extended the normal time for Title 11 planning for the area: two years following the identification of a final alignment for the Connector, or seven years after the effective date of Ordinance No. 04-1040B, whichever comes sooner. This allows Title 11 planning by Washington County, the cities of Tualatin and Wilsonville and Metro to accommodate planning for the Connector alignment. Second, the

Council states that, so long as the alignment for the Connector falls close to the South Alignment shown on the 2040 Growth Concept Map, it will serve as the buffer between residential development to the north (the portion least suitable for industrial uses) and industrial development to the south (the portion of the area most suitable for industrial use)

1. Orderly Services

The Council relies upon the Tualatin Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Industrial Land Alternative Analysis Study (Appendix A, Item (c), pages 111 and Table A-2, respectively) for its determination that urban services can be provided to the area in an orderly and economic manner by extending services from existing serviced areas.

The Alternatives Analysis (pp. 61-62) sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the Tualatin Study Area. Serviceability ranges from "easy" to "difficult" to serve (Table 1, p. 111). Throughout Task 2 of periodic review the Council has found, however, that provision of services to almost every exception area is difficult and expensive. The City of Wilsonville anticipates further industrial development in the portion of the study area north and northwest of the existing city, in part due to the siting of the Coffee Creek Correctional Facility, and expects to be the service provider over time. Given the critical need for sites proximate to interchanges on I-5 and the rarity of such sites, the Council has decided to include the Tualatin Study Area notwithstanding.

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above (Orderly Services) for its conclusion that the area can urbanize efficiently. The Council also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

This area lies between two cities and among areas added to the UGB for industrial use in December, 2002, making urbanization of the area more efficient than projecting urbanization from the UGB into a rural area. Given the likelihood that the region will build the I-5/99W Connector through this area, industrial development in the area will ensure efficient use of that facility.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on the Tualatin Study Area set forth in the Alternative Analysis Study, pp. 62-63 and Table A-3). The analysis indicates that the consequences will be low to moderate, especially considering the requirements of Title 11 of the UGMFP that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the area subject to Title 3 of the UGMFP and the conditions in Exhibit F of Ordinance No. 04-1040B.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning considered Metro's adopted Goal 5 inventory during its planning (see Condition IG, Exhibit F). The local governments will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the Tualatin Study Area would have low adverse consequences for agriculture (Alternative Analysis Study, p. 62; Table A-4). Although there are a few agricultural uses in the study area itself, the area is designated entirely for rural residential and rural industrial uses, pursuant to exceptions from statewide planning Goals 3 and 4. The area is isolated from land designated for agriculture by the UGB, I-5 and mining operations to the west. Hence, it is unlikely that industrial use will conflict with agricultural activities on land designated for agricultural or forest use.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the Tualatin Study Area protected by Washington County in its acknowledged comprehensive plan (pp. 62-63). There are aggregate mines in the vicinity; portions of Washington County's Mineral and Aggregate Overlay District B cover small portions of the study area in the northwest and southwest corners and the top central portion.

The county, or the City of Wilsonville or Tualatin upon annexation to one of the cities, will be responsible for protecting these resources when it amends its comprehensive plan and zoning ordinance to implement expansion of the UGB. Condition IG of Exhibit F requires the county or city to consider Metro's inventory of Goal 5 resources in their application of Goal 5 to the Tualatin Study Area. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires the county or city to protect water quality and floodplains in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the county or city to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county or city planning for the area.

6. Public Facilities and Service

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County and the cities of Wilsonville and Tualatin from upzoning and from dividing land into resulting lots or parcels smaller than 20 acres until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of the area; and (2) requires the county or city to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public facilities such as sanitary sewers, storm sewers and water lines for the area.

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Tualatin Study Area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County and the cities of Tualatin and Wilsonville from upzoning and from land divisions into lots or parcels smaller than 20 acres in the area until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land added to the UGB; and (2) requires the county or city to develop conceptual transportation plans and urban growth diagrams with the general locations of arterial, collector and essential local streets for the area. Metro began this work with the evaluation of the serviceability of the area in the Alternative Analysis Study (pp. 61-62 and Table A-2) and consideration of how to provide services as part of the analysis required to satisfy Goal 14, factors 3 and 4.

Table A-2 recognizes that provision of transportation to new industrial uses in the area will be difficult. The Oregon Department of Transportation, Region 1 ("ODOT"), expects the volume-to-capacity ratio on I-5 in the vicinity of the North Wilsonville interchange to be "extremely poor" by 2025, and states

that the interchange “may need to be reviewed for impact” if the Council adds land to the UGB dependent upon the interchange. The “Priority System” in Metro’s RTP calls for improvement to Boones Ferry Road from Durham Road in Tualatin to Elligsen Road in Wilsonville and for construction of a four-lane tollway between I-5 and Highway 99W, the southern and most likely alignment of which passes through the study area. There is no planned improvement to the capacity of the freeway or the interchange in the RTP or either city’s TSP. In 2002, however, a joint ODOT/Wilsonville study concluded that in 2030, widening of I-5 to eight lanes would be required to meet interstate freeway capacity standards set by Metro and ODOT. This study will help Metro, ODOT, Wilsonville and Tualatin understand the improvements needed to accommodate industrial use in the study area. The 2004 Federal RTP also identifies a corridor refinement study for I-5 in the vicinity. These studies will inform Title 11 planning for the study area.

8. Regional Framework Plan

The Tualatin Study Area lies midway between the Tualatin and Wilsonville Town Centers, and is nearly as close to the Sherwood Town Center as to Tualatin and Wilsonville. Industrial development in the study area will provide additional employment to support businesses in those centers. The Council includes this area, notwithstanding that this part of the region is relatively well-endowed with employment, because it has more of the characteristics needed for warehousing and distribution than other areas considered. The Wilsonville South Area has many of the same characteristics. But it lies on the opposite side of the Willamette River and requires a trip on I-5 across the river to gain access to the Wilsonville Town Center. The Council concludes that addition of the north portion of the Tualatin Study Area provides better urban form to the city and the region than adding land on the south side of the Willamette River.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan adopted a “Priority System” of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements in the vicinity of the Tualatin Study Area are improvement to Boones Ferry Road from Durham Road in Tualatin to Elligsen Road in Wilsonville and construction of a four-lane tollway between I-5 and Highway 99W, the southern and most likely alignment of which passes through the study area.

F. Helvetia (Partial)

The Council relies upon the facts and analysis in the Industrial Land Alternative Analyses Study [Appendix A, Item(c) in Ordinance No. 04-1040B, pp. 104-06; 111; A-1 to A-4] and the Staff Reports [Appendix A, Item (a), p. 28] to support its conclusion that addition of a 249-acre portion of the Helvetia Study Area will provide for an orderly and efficient transition from rural to urban land use. The Council chose this area because it has several characteristics that render it among the most suitable sites under consideration for industrial use: a large parcels; relatively flat land; and proximity to a freeway interchange. The Urban Growth Report-Employment (UGR-E) identifies a specific need for large parcels (50 acres or larger) (Ordinance No. 02-969B, Appendix A, Item 4, page 25). This portion of the Helvetia Study Area contains one parcel between 50 and 100 acres.

Two-thirds of this area (162 acres) is designated for agriculture in Washington County’s comprehensive plan (predominantly Class II soil). The farmland portion lies between the existing UGB (to the south and east) and the exception land portion to the west. West Union Road separates the included farmland from excluded farmland to the north. The Council includes this farmland because the exception land portion (87 acres) contains some land suitable for industrial use. Also, among farmlands considered,

this farmland is already affected by nearby urban and rural residential use. Further, the Council found only two areas designated for agriculture of higher priority (Class IV or III soils) suitable for industrial use (Damascus West and Quarry Study Areas) (see discussion of West Union Study Area, below).

The Council considered including a portion of the Evergreen Study Area, which also contains a combination of exception land and Class II farmland, because it, too, contains several large parcels. The Council favored the Helvetia area because the farmland portion of the Evergreen area that lies between the UGB to the east, the exception land to the west and NW Meek Road to the north includes considerably more farmland than the included portion of the Helvetia Area (478 acres versus 162 acres in Helvetia). Further, unlike the exception land portion of Helvetia, the exception land portion of the Evergreen Study Area does not contain land suitable for industrial use.

The Council also considered inclusion of the West Union Study Area, which contains farmland of Class II and III soils. The Council chose the Helvetia area rather than the West Union area because the portion of the West Union area with higher-priority Class III soils is not suitable for industrial use (slopes greater than 10 percent), and this portion lies to the north of the portion with predominantly Class II soils (adjacent to the UGB). Also, the Council found no good barrier in the West Union area to separate farmland included from farmland excluded until Cornelius Pass Road to the north, which would enclose many more acres of farmland (862 acres) than the 162 acres in the Helvetia area.

The Council also considered Class II farmland in the Wilsonville East Study Area in order to find large parcels suitable for industrial use. The Council chose the Helvetia Study Area over the Wilsonville area because the former will be considerably easier to provide with public facilities and services (p. 111). As a result, inclusion of the Helvetia area has the support of the City of Hillsboro, while the City of Wilsonville opposes inclusion of the Wilsonville East area.

The Council considered two other study areas composed predominantly of Class II soils: the Noyer Creek and South Hillsboro areas. According to the report of the Metro Agricultural Lands Technical Workgroup led by the Oregon Department of Agriculture ["Limited Choices: The Protection of Agricultural Lands and the Expansion of the Metro Area Urban Growth Boundary for Industrial Use", Appendix A, Item (i)], both areas have higher value for commercial agriculture than the Helvetia area.

Finally, the Council considered Class II farmland south of Wilsonville, near the I-5 corridor on the south side of the Willamette River. The Council rejected this farmland because inclusion would constitute a projection away from the urbanization portion of the metropolitan region, toward Marion County to the south. Industrial development south of the river would also be separated from the services of the City of Wilsonville and the rest of the metropolitan region, connected only by a limited access (interstate highway) bridge across the river. Inclusion of the Helvetia area would better achieve the compact urban form sought by Policies 1 and 1.6 of the RFP and Policy 3 of the Regional Transportation Plan. The Oregon Department of Agriculture urged the Council not to add farmland south of the Willamette River because it would further introduce urban uses into that core area of the Willamette Valley's commercial agriculture. Although the department also expressed concern about inclusion of the Helvetia area, it placed a higher priority on protection of farmland south of the Willamette River. The Council concludes that inclusion of the Helvetia area rather than the Wilsonville South Study area farmland better achieves Policy 1.12.2 of the RFP.

In short, of the Class II farmlands considered by the Council, this portion of the Helvetia Study Area best meets the identified need for industrial land and is most separated from nearby agricultural lands. Other than the exception lands that are part of this study area, there are no other exception lands that can help the region meet its need for larger parcels for industrial use.

1. Orderly Services

The Council relies upon the Helvetia Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Industrial Land Alternative Analysis Study (Appendix A, Item (c), pages 111 and Table A-2, respectively) for its determination that urban services can be provided to the area in an orderly and economic manner by extending services from existing serviced areas.

The Alternatives Analysis (pp. 104-05) sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the larger Helvetia Study Area. Serviceability ranges from "easy" to "moderate" to serve the entire area (Table 1, p. 111). It will be easier to serve the smaller portion of the study area included by the Council because it is the portion closest to the existing UGB (borders on east and south) and services just to the east.

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above (Orderly Services) for its conclusion that the area can urbanize efficiently. The Council also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

This area borders the UGB on two sides, with employment and industrial uses on the urban sides of the UGB, making urbanization of the area for industrial use more efficient than projecting urbanization from the UGB into a rural area.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on the Helvetia Study Area set forth in the Alternative Analysis Study, pp. 105-06 and Table A-3). The analysis indicates that the consequences will be moderate. The requirements of Title 11 of the UGMFP that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the area subject to Title 3 of the UGMFP and the conditions in Exhibit F of Ordinance No. 04-1040B will reduce adverse consequences from urbanization of the area.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning consider Metro's adopted Goal 5 inventory during its planning (see Condition IG, Exhibit F). The local government will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the Helvetia Study Area would have high adverse consequences for nearby agriculture (Alternative Analysis Study, pp. 105-06; Table A-4). The analysis, however, is based urbanization of the entire Helvetia Study Area (1,339 acres) rather than just the portion included within the UGB (249 acres). Adverse consequences and incompatibility from urbanization of the included portion will be much reduced, given that the UGB borders this portion on the east and south sides, West Union Road borders the portion on the north side, and much of this portion (87 acres) is exception area lying between the included farmland portion and the excluded farmland portion to the west.

According to the report of the Metro Agricultural Lands Technical Workgroup led by the Oregon Department of Agriculture ["Limited Choices: The Protection of Agricultural Lands and the Expansion of the Metro Area Urban Growth Boundary for Industrial Use", Appendix A, Item (i)], the included portion of the Helvetia area is less important to commercial agriculture in the region than other agricultural areas under consideration because it lies amid urban and rural residential uses: "However, the workgroup could not ignore the land use pattern both within the area, the location of the area within a small notch of the current urban growth boundary and the two hard edges provided by Helvetia and West Union Roads" (p. 11).

Ordinance No. 04-1040B, Exhibit F, imposes Condition IE upon urbanization of the area to reduce conflict and improve compatibility between urban use in the area and agricultural use on land to the north and west.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the Helvetia Study Area protected by Washington County in its acknowledged comprehensive plan (p. 106). The county, or the City of Hillsboro upon annexation to the city, will be responsible for protecting these resources in the area when it amends its comprehensive plan and zoning ordinance to implement expansion of the UGB. Condition IG of Exhibit F requires the county or the City of Hillsboro to consider Metro's inventory of Goal 5 resources in their application of Goal 5 to the Helvetia area. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires the county or city to protect water quality and floodplains in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the county or city to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county or city planning for the area.

6. Public Facilities and Services

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Hillsboro from upzoning or from dividing land into resulting lots or parcels smaller than 20 acres until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public facilities such as sanitary sewers, storm sewers and water lines for the area.

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Helvetia Study Area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Hillsboro from upzoning and from land divisions into resulting lots or parcels smaller than 20 acres in the area until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop conceptual transportation plans and urban growth diagrams with the general locations of arterial, collector and essential local streets for the area. Metro began this work with the evaluation of the serviceability of the area in the Alternative Analysis Study (pp. 104-05 and Table A-2) and consideration of how to provide services as part of the analysis required to satisfy Goal 14, factors 3 and 4.

The Oregon Department of Transportation ("ODOT"), Region 1, notes that the Shute Road interchange on Hwy. 26, to which most of the trips generated by development in the Helvetia area will go, "is already inadequate to accommodate the 2003 Urban Growth Boundary ("UGB") expansion in this area." Metro's 2004 RTP includes an interchange improvement to serve the industrial land added to the UGB for industrial use in December, 2002, with partial funding. The RTP also identifies the need to widen several stretches of Hwy. 26 from four to six lanes. The county or city, together with Metro, will fully assess the effects of development on these facilities during Title 11 planning. Title 11 calls for a conceptual transportation plan as part of amendment of city or county comprehensive plans and land use regulations, to which statewide planning Goal 12 and the Transportation Planning Rule apply.

8. Regional Framework Plan

The Helvetia Study Area lies adjacent to, and will likely become part of the North Hillsboro Industrial Area. This industrial area is the anchor of the high tech cluster that runs from this tract to Wilsonville. It contains the largest concentration of high technology firms in the state. The area supports businesses in the Hillsboro Regional Center, other Centers on the west side of the region, and the Central City. Industrial development in the Helvetia Study Area will provide additional employment to support those centers. The Council includes this area, notwithstanding that this part of the region is relatively well-endowed with employment, because, as noted above, it the characteristics needed for the industrial sectors likely to grow during the planning period.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan ("RTP") adopted a "Priority System" of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements in the vicinity of the Helvetia Study Area in Metro's 2004 RTP is an interchange improvement to serve the industrial land added to the UGB for industrial use in December, 2002, with partial funding.

G. Cornelius

The Council relies upon the facts and analysis in the Industrial Land Alternative Analyses Study [Appendix A, Item(c) in Ordinance No. 04-1040B, pp. 84-87; 111; A-1 to A-4] and the Staff Reports [Appendix A, Item (a), p. 27] to support its conclusion that addition of this 262-acre portion of the Cornelius Study Area will provide for an orderly and efficient transition from rural to urban land use. Slightly more than half (56 percent) of the included portion is designated for agriculture in Washington County's comprehensive plan (predominantly Class II soil). The farmland portion lies in two tracts separated by an exception area. A second tract of exception land borders the farmland on the east side. Together, these four adjacent tracts comprise the portion of the study area included in the UGB.

The Council chose this portion of the study area because it has characteristics that render it suitable for industrial use: large and mid-sized parcels and relatively flat land. The Urban Growth Report-Employment (UGR-E) identifies a specific need for large parcels (50 acres or larger) (Ordinance No. 02-969B, Appendix A, Item 4, page 25). The included portion of the study area contains one parcel between 50 and 100 acres [Appendix A, Item (a), p.30].

The Council also chose this area to help achieve Policies 1.2, 1.3.1 and 1.4 of the Regional Framework Plan (RFP), which call, among other things, for an equitable and balanced distribution of employment opportunities, income, investment and tax capacity throughout the region. The Council considered the fiscal and equity effects of including this area on the City of Cornelius. Given that the city

has the highest poverty rate, the lowest property tax revenue per capita, the lowest land improvement market value and the longest average commute in the region, the Council concluded that industrial development in this area would help achieve these policies better than inclusion of any other Class II agricultural land.

The Council considered including a portion of the Evergreen Study Area, which also contains a combination of exception land and Class II farmland, because it, too, contains several large parcels. The Council favored the Cornelius area for the reasons stated above, and because the farmland portion of the Evergreen area that lies between the UGB to the east, the exception land to the west and NW Meek Road to the north includes considerably more farmland than the included portion of the Cornelius Study Area (478 acres versus 147 acres in the Cornelius area).

The Council also considered inclusion of the West Union Study Area, which contains farmland of Class II and III soils. The Council chose the Cornelius area rather than the West Union area because the portion of the West Union area with higher-priority Class III soils is not suitable for industrial use (slopes greater than 10 percent), and this portion lies to the north of the portion with predominantly Class II soils (adjacent to the UGB).

The Council also considered Class II farmland in the Wilsonville East Study Area in order to find large parcels suitable for industrial use. The Council chose the Cornelius area over the Wilsonville area for the reasons stated above, and because the former will be considerably easier to provide with public facilities and services (p. 111). As a result, inclusion of the Cornelius area has the support of the City of Cornelius, while the City of Wilsonville opposes inclusion of the Wilsonville East area.

The Council considered two other study areas composed predominantly of Class II soils: the Noyer Creek and South Hillsboro areas. The Cornelius area is easier to provide with public services than either Noyer Creek or South Hillsboro. Inclusion of industrial land in the Cornelius area will better accomplish Policies 1.2, 1.3.1 and 1.4 of the RFP than inclusion of Noyer Creek or South Hillsboro.

Finally, the Council considered Class II farmland south of Wilsonville, near the I-5 corridor on the south side of the Willamette River. The Council rejected this farmland because inclusion would constitute a projection away from the urbanization portion of the metropolitan region, toward Marion County to the south. Industrial development south of the river would also be separated from the services of the City of Wilsonville and the rest of the metropolitan region, connected only by a limited access (interstate highway) bridge across the river. Inclusion of the Cornelius area would better achieve the compact urban form sought by Policies 1 and 1.6 of the RFP and Policy 3 of the Regional Transportation Plan. The Oregon Department of Agriculture urged the Council not to add farmland south of the Willamette River because it would further introduce urban uses into that core area of the Willamette Valley's commercial agriculture. Although the department also expressed concern for expansion of the UGB north of Council Creek in the Cornelius area (part of the included area lies north of Council Creek; part lies south), it placed a higher priority on protection of farmland south of the Willamette River. The Council concludes that inclusion of the Cornelius area rather than the Wilsonville South Study Area farmland better achieves Policy 1.12.2 of the RFP.

1. Orderly Services

The Council relies upon the Cornelius Study Area Goal 14 Analysis Summary and the Ratings for Transportation Services Feasibility contained in its Industrial Land Alternative Analysis Study (Appendix A, Item (c), pages 111 and Table A-2, respectively) for its determination that urban services can be provided to the area in an orderly and economic manner by extending services from the City of Cornelius.

The Alternatives Analysis (pp. 84-85) sets forth the likely service providers for sewer, water and storm-water services and assigns a serviceability rating for the entire Cornelius Study Area. Serviceability ranges from "easy" to "moderate" to serve the entire area (Table 1, p. 111). It will be easier to serve the portion of the study area included by the Council because it is the portion closest to the existing UGB (borders on south) and existing services.

2. Efficiency

The Council relies on the same information on provision of essential services mentioned above (Orderly Services) for its conclusion that the area can urbanize efficiently. The Council also relies upon its findings and conclusions above (part I, General Findings, section D, Alternatives: Increase Capacity of UGB) regarding actions it has taken to increase the efficiency of the use of employment land within the existing UGB.

This area borders the UGB to the south, with employment and industrial uses along a portion of the urban side of the UGB. The included portion also includes two exception area of predominantly rural residential use. Inclusion of the exceptions areas will, over time, lead to more efficient use of the areas.

3. Consequences

The Council relies upon the analysis of the consequences of urbanization on the Cornelius Study Area set forth in the Alternative Analysis Study, pp. 86-87 and Table A-3). The analysis indicates that the consequences will be moderate. The requirements of Title 11 of the UGMFP that comprehensive planning and land use regulations for the area protect the portions (streams, wetlands, floodplains and steep slopes) of the area subject to Title 3 of the UGMFP and the conditions in Exhibit F of Ordinance No. 04-1040B will reduce adverse consequences from urbanization of the area.

The Council has placed a condition on comprehensive planning for the area that the local government responsible for planning consider Metro's adopted Goal 5 inventory during its planning (see Condition IG, Exhibit F). The local government will eventually adopt provisions to implement Metro's Goal 5 program following the Council's adoption of that program, if the local government's ordinance do not already comply.

4. Compatibility

The Agricultural Analysis Consequences shows that urbanization of the Cornelius Study Area would have high adverse consequences for nearby agriculture (Alternative Analysis Study, pp. 84-85; Table A-4). The analysis, however, is based urbanization of the entire study area (1,154 acres) rather than just the portion included within the UGB (262 acres). Adverse consequences and incompatibility from urbanization of the included portion will be much reduced, given that the UGB borders this portion on the south side, and that the farmland portions of the included area border two exception areas, also included.

Ordinance No. 04-1040B, Exhibit F, imposes Condition IE upon urbanization of the area to reduce conflict and improve compatibility between urban use in the area and agricultural use on land to the north and west.

5. Natural and Cultural Resources

The Alternative Analysis Study addresses Goal 5 and 6 resources in the Cornelius Study Area protected by Washington County in its acknowledged comprehensive plan (p. 86). The county, or the City of Cornelius upon annexation to the city, will be responsible for protecting these resources in the area when it amends its comprehensive plan and zoning ordinances to implement expansion of the UGB. Condition IG of

Exhibit F requires the county or the city to consider Metro's inventory of Goal 5 resources in their application of Goal 5 to the area. Title 3 (Water Quality, Flood Management and Fish and Wildlife Conservation) of the UGMFP requires the county or city to protect water quality and floodplains in the area. Title 11 of the UGMFP, section 3.07.1120G, requires the county or city to protect fish and wildlife habitat and water quality. Title 11, section 3.07.1110, protects the status quo in the interim period of county or city planning for the area.

6. Public Facilities and Services

Under statewide Planning Goal 11, Metro is responsible for coordination of the preparation of public facility plans within the district. Metro will fulfill this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Cornelius from upzoning or from dividing land into resulting lots or parcels smaller than 20 acres until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop public facilities and services plans and urban growth diagrams with the general locations of necessary public facilities such as sanitary sewers, storm sewers and water lines for the area.

7. Transportation

Metro shares responsibility to ensure that its Task 2 decision for the Cornelius Study Area does not significantly affect a transportation facility or allow uses that are inconsistent with the identified function, capacity and performance standards of transportation facilities. Metro fulfills this responsibility through implementation of Title 11 of the UGMFP, which (1) prohibits Washington County or the City of Cornelius from upzoning and from land divisions into resulting lots or parcels smaller than 20 acres in the area until the county or city revises its comprehensive plan and zoning ordinances to authorize urbanization of land Metro brings into the UGB; and (2) requires the county or city to develop conceptual transportation plans and urban growth diagrams with the general locations of arterial, collector and essential local streets for the area. Metro began this work with the evaluation of the serviceability of the area in the Alternative Analysis Study (pp. 85 and Table A-2) and consideration of how to provide services as part of the analysis required to satisfy Goal 14, factors 3 and 4.

The Oregon Department of Transportation ("ODOT"), Region 1, notes that industrial development in the Cornelius area will worsen the level of service on the Tualatin Valley Highway between Cornelius and Hillsboro. The "Financially Constrained" and "Priority System" in Metro's Regional Transportation Plan ("RTP") include several projects that will address congestion in the corridor (Projects 3156, 3164, 3166, 3167, 3168 and 3171). The county or city, together with Metro, will fully assess the effects of development on these facilities during Title 11 planning. Title 11 calls for a conceptual transportation plan as part of amendment of city or county comprehensive plans and land use regulations, to which statewide planning Goal 12 and the Transportation Planning Rule apply.

8. Regional Framework Plan

The included portion of the Cornelius Study Area lies directly north of and adjacent to the City of Cornelius. The area is within one mile of the designated Main Street of Cornelius (there is no designated Town Center). Industrial development in the included area will provide additional employment to support the businesses on Main Street, and provide employment opportunities for the many residents of Cornelius who now travel to other parts of the region for work. As stated above, industrial development in this area will help achieve Policies 1.2, 1.3.1 and 1.4 of the RFP better than inclusion of any other land, including other farmland.

9. Regional Transportation Plan

Through its Joint Policy Advisory Committee on Transportation, Metro has coordinated transportation planning and funding of transportation improvements with local governments in the region. The Regional Transportation Plan ("RTP") adopted a "Priority System" of improvements through the year 2020. The Priority System includes the most critical improvements needed to implement the 2040 Growth Concept. Among the improvements in the vicinity of the included portion of the Cornelius Study Area in Metro's RTP are intersection safety improvements on the TV Highway couplet and improved transit service (see list of projects noted in section 8, above).

REQUIREMENT NO. 2:

REMAND ORDER ON SUBTASK 17: EITHER REMOVE TAX LOTS 1300, 1400 AND 1500 FROM THE BOUNDARY OF EXPANSION AREA 62, OR JUSTIFY THEIR INCLUSION UNDER GOAL 14.

Ordinance No. 04-1040A amends the UGB to remove Tax Lots 1300, 1400 and 1500, all in Study Area 62, from the UGB (Exhibit E). The Council concludes that there is no need to include these lots given the small surplus of land for residential use that resulted from expansion of the UGB by Ordinance No. 02-969B.

REQUIREMENT NO. 3:

REMAND ORDER ON SUBTASK 12B: PROVIDE DATA ON THE ACTUAL NUMBER DENSITY AND AVERAGE MIX OF HOUSING TYPES AS REQUIRED BY ORS 197.296(5) AND DETERMINE THE OVERALL AVERAGE DENSITY MUST OCCUR IN ORDER TO MEET HOUSING NEEDS OVER THE NEXT 20 YEARS AS REQUIRED BY ORS 197.296(7)

Ordinance No. 04-1040A further revises the Revised Housing Needs Analysis ("HNA") to display data required by ORS 197.296(5) (Exhibit D). The data show the number, density and average mix of housing types arranged by type of buildable land (vacant, partially vacant, redevelopment and infill and mixed-use land). These data were subsets of aggregated data in the HNA, but were not displayed in the Revised HNA submitted to LCDC with the Task 2 Submittal on January 24, 2003.

The purpose for collecting the data is to help determine "the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 30 years." ORS 197.296(7). Metro determined the overall density and mix of needed housing types in the Revised HNA submitted on January 24, 2003 (see pages 2-7, Figures 3.1, 3.2, 3.3, 5.1 and 5.3). [add text and explanation from earlier HNA] The data newly displayed in this revision do not affect Metro's earlier determination.

**MEASURE 37 OWNER CONSENT
FOR REPRESENTATIVE TO FILE CLAIM**

I (We) X Marlene A. Hanks + Franklin R. Hanks hereby authorize our land use attorney, Andrew H. Stamp, Andrew H. Stamp, P.C., to file a Measure 37 Claim for my (our) property described as 16000 SE Keller, Clackamas OR, located in Clackamas County, Oregon, 97015 (T 25, R 3E Sec. 08/28B Tax Lot 10141101

We hereby give permission to the Department of Administrative Services, the Regulating Entity, and their officers, employees, agents, and contractors, as necessary, to enter the Subject property during normal business hours to appraise it and verify information in the claim. We swear that to the best of our knowledge, the information in the Claim is true and correct.

Dated this 8 day of July, 2005

Marlene A. Hanks
Property Owner Signature

Property Owner Signature

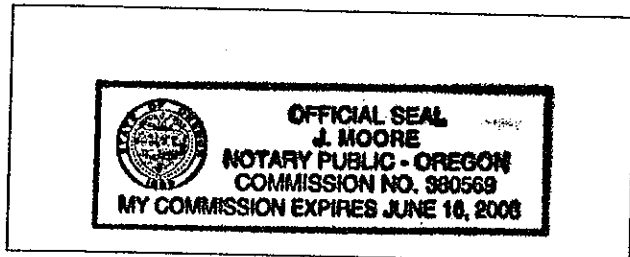
Marlene A. Hanks attorney in fact for Franklin R. Hanks
Property Owner Signature

Franklin R. Hanks
Property Owner Signature

BE IT REMEMBERED that on this ____ day of _____, 2005, before me, the undersigned, a notary public in and for said county and state, personally appeared before the within named _____, known to me to be the identical individual(s) described in and who executed the instrument and acknowledged to me that same was executed freely and voluntarily.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

STATE OF OREGON)
)
County of Clackamas)



J. Moore
Notary Public of Oregon
My Commission expires: 6-10-08

**PREPARED BY & AFTER RECORDING
RETURN TO:**

Law Offices of Nay & Friedenber
6720 SW Macadam, Suite 200
Portland, OR 97219-2373

**POWER OF ATTORNEY FOR FINANCES
DURABLE AND GENERAL**

I, FRANKLIN R. HANKS do hereby make, constitute and appoint MARLENE A. HANKS as my agent and attorney-in-fact. If MARLENE A. HANKS is unable or unwilling to act in that capacity or if MARLENE A. HANKS shall serve but thereafter for any reason ceases to serve, I hereby make, constitute and appoint the following persons as my agent and attorney-in-fact, in order of preference as listed: (1) MICHAEL J. HANKS (2) JULIE A. BOOTHBY. My attorney-in-fact (hereinafter referred to as "agent") shall have the following power and authority:

1. To take possession and control of all my property, real and personal; to manage, administer, operate, maintain and improve such property; to insure and keep the same insured; and to pay any and all taxes, charges and assessments that may be levied or imposed upon such property.
2. To collect and receive any money, property, debts or claims whatsoever, as are now or shall hereafter become due, owing and payable or belonging to me, to forgive debts, and to give receipts or other sufficient discharge for any of the same.
3. To retain any property, real or personal, which comes into the possession of my agent in the form in which it was received or to change the form of such property as my agent may deem prudent.
4. To pay my debts and other obligations.
5. To represent me in all tax matters; to prepare, sign and file federal, state and/or local income, estate, gift and other tax returns of all kinds.
6. To make expenditures for my care, maintenance, support and general welfare, and to distribute such sums as are necessary for the care, support and maintenance of members of my family who are dependent upon me for support.

DURABLE POWER OF ATTORNEY – FRANKLIN R. HANKS

(Page 1 of 5)

7. To commence, prosecute and to defend against, to compromise, submit to arbitration, answer and oppose all actions, suits and proceedings touching any matters in which I am or hereafter may be interested or concerned, and any matters which may arise from the agency created in this instrument.
8. To bargain for, buy and deal in property and goods of every description.
9. To convey, grant, sell, mortgage, pledge, consign, lease, hypothecate and in any and every manner deal in and with my property, both real and personal.
10. To make and deliver any deeds, conveyances, contracts, covenants and other instruments, undertakings or agreements, of whatever kind and nature, including the right to supply the legal description of any real property involved in any of the foregoing documents, which my said agent in my agent's discretion shall deem to be for my best interests.
11. To borrow any sums of money on my behalf on such terms and at such rates of interest as my said agent may deem proper, and to give security on my behalf for the repayment of the same.
12. To accept, sign, endorse, sell, discount, deliver, deposit, and transfer checks, drafts, notes, bills, bonds, and negotiable or nonnegotiable instruments, including any payments to me drawn on the Treasury of the United States or the State of Oregon or any other state or governmental entity.
13. To make and change investments, including buy, sell, transfer and withdraw, and to handle all transactions with regard to United States Savings bonds and Treasury bills, notes and bonds.
14. To have access to and remove any item from any safe deposit box which has been rented in my name, or in the name of myself and any other person or persons.
15. To do and perform every act necessary or desirable, including to serve as representative payee, with respect to rights and entitlements for my benefit and the benefit of my spouse from the Social Security Administration, Medicare, Medicaid, any branch of military service, the Veterans Administration and any state Department of Veterans Affairs.
16. To make and change investments, including buy, sell, transfer and withdraw, in income bearing securities, including common and preferred stocks of corporations, as my said agent in its discretion may deem prudent, and to hold such securities in the name of its nominee or unregistered in such form that transfer thereof may be effected by delivery; and to vote any stock in my name as proxy.

17. To withdraw any monies deposited with any bank, mutual savings bank, credit union, savings and loan association, mutual fund, life insurance company, investment advisor or broker in my name, or in the name of myself and any other person or persons, and generally to do any business with any such financial institution or agency on my behalf.

18. To change ownership of my life insurance policies and annuities, to borrow cash value from or surrender such life insurance policies and annuities, to make and change beneficiary designations and to consent and/or waive consent in connection with the designation of beneficiaries of my life insurance policies, annuities, IRAs and employee benefit plans.

19. To negotiate checks, change beneficiaries, assign, waive or otherwise transfer rights to any pension to which I am entitled, whether private, federal (including the Office of Personnel Management), state (including Public Employees Retirement System), or other.

20. To elect, declare or change my domicile for the purpose of transferring securities, federal and state tax elections, and long term care planning.

21. To establish and fund a trust for my benefit, or the benefit of my spouse, and to amend and/or revoke a revocable trust for my benefit or the benefit of my spouse.

22. To make gifts or other transfers without consideration, outright or in trust, including the forgiveness of indebtedness.

23. To grant, bargain, sell, convey and transfer real and personal property from my name to the name of my agent or to a trustee of a trust established for my benefit and/or the benefit of my spouse.

24. To employ, compensate and discharge such domestic and professional personnel, including attorneys, accountants, financial consultants, advisors, consultants, servants and employees as my agent deems appropriate.

25. To disclaim or renounce any interest or power to which I might be entitled, and to do all acts pursuant to such disclaimer or renunciation required under federal or state law (including the Internal Revenue Code of 1986 and its successors).

26. To retain and reserve a power of appointment regarding any conveyance. To release all or a portion of any power of appointment held by me, whether general or special. To release any such power of appointment regarding real property by a deed signed by my agent.

I authorize my said agent for me and in my name generally to do and perform all and every act and thing whatsoever requisite, desirable or necessary to be done in the premises; to conduct, manage and control all my business and my property, wheresoever situate and whether now owned or hereafter acquired, as my agent may deem for my best interests; and to execute and acknowledge any and all instruments necessary or proper to carry out the foregoing powers,

DURABLE POWER OF ATTORNEY – FRANKLIN R. HANKS

(Page 3 of 5)

hereby releasing and saving harmless all third persons from responsibility for the acts and omissions of my said agent and empowering my said agent to indemnify all such persons against loss, expense and liability.

Third persons may rely upon the continued validity of this Power of Attorney until receiving actual knowledge of its revocation or of my death.

I expressly declare that I am aware of the broad grant of authority herein and recognize that these powers may be needed for purposes that cannot be determined in advance, including planning for long term care benefits.

I expressly declare that the powers of my agent herein described shall be exercisable by my said agent on my behalf, and shall be binding on me, notwithstanding that I may become legally disabled or incompetent.

An agent named herein shall be deemed "unable" or "unwilling" to act in that capacity when his/her successor or the principal can document such by producing a certificate of death, a statement of incapacity by a physician or a written resignation from the agent.

It is my intent that this power of attorney be valid in every state, however all questions pertaining to validity, interpretation and administration of this power shall be determined in accordance with the laws of the State of Oregon.

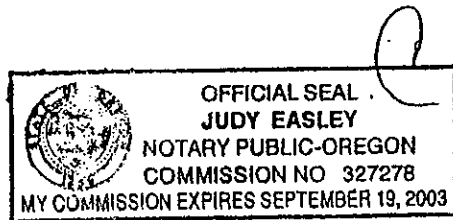
DATED this 4 day of Oct, 2000.

Dandra McRally
Signature of Witness

HIS (X) MARK
FRANKLIN R. HANKS

Cathy Wagner
Signature of Witness

STATE OF OREGON)
) ss.
County of Clatsop



The above-named FRANKLIN R. HANKS personally appeared before me on this 4 day of Oct, 2000, and acknowledged the foregoing instrument to be his voluntary act.

Judy Easley
Notary Public for Oregon

Printed Names and Addresses of Witnesses:

SANDRA McNALLY

Name

19830 SE Hwy 212

Address

CLACKAMAS OR 97015

City/State/Zip

1983 Cathy Wagner

Name

19830 SE Hwy 212

Address

Clackamas, OR 97015

City/State/Zip

U.S. POSTAGE
PAID
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First Class Mail



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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
CERTIFIED MAIL™

**RETURN RECEIPT
REQUESTED**

Andrew H. Stamp, P.C. Krusse Mercantile Professional Offices, Suite 9 4248 Galewood St. Lake Oswego, OR 97035
• Land Use • Real Estate • Transportation
Send to: Mr. Daniel B. Cooper Office of Metro Counsel 600 NE Grand Ave. Portland OR 97232



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

**SUPPLEMENTAL REPORT OF THE METRO CHIEF OPERATING OFFICER
June 30, 2006**

In Consideration of Council Order No. 06-006
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of
Franklin R. and Marlene A. Hanks

This Supplemental Report revises a portion of section 4, Effect of Functional Plan Requirement on Fair Market Value, of the June 9, 2006, report, in Part A, "Comparable Sales" Method. That report compared the value of the Hanks property under Clackamas County's RA-1 (Residential Agriculture) zoning – which allowed the creation of one-acre lots – with the value of the property under current regulations. The county's RA-1 zone applied to the property at the time the Hanks acquired the property in 1968 and 1971.

Metro's regulations, however, did not become applicable to the Hanks property until the effective dates of Ordinance No. 02-969B for the 7.57-acre parcel (March 5, 2003) of Ordinance No. 04-1040B for the 19.99-acre parcel (September 22, 2004). At those times, the county applied RA-2 (Residential Agriculture) zoning (two-acre minimum lot size) to the property. Also, at that time, a state-required 20-acre minimum lot size applied to the property because it lay within one mile of the UGB as it stood before Metro expanded it to include the property (effective September 22, 2004).

According to Measure 37, Metro must determine whether the application of the challenged regulation had the effect of reducing the value of the property at the time the Metro regulation became applicable to the property. Thus, the report should have compared the value of the Hanks property under the county's RA-2 zoning and the state's 20-acre minimum lot size – the land use regulations that applied at the time Metro first applied its regulations - with the value of the property under current regulations.

As shown on the attached analysis, a comparison of the value of the Hanks' property under the regulations that applied prior to March 5, 2003, and September 22, 2004, with its value under current regulations indicates that Metro's actions on those dates to include the parcels in the UGB, designate them Inner Neighborhood and Industrial Area respectively, and place a temporary 20-acre minimum lot size on the parcels did not reduce the fair market value of the property.

Recommendation of the Chief Operating Officer:

The Metro Council should deny the Hanks claim because Metro's action did not reduce the fair market value of the property.

Current Value Estimate of the Value of the Hanks Property Before and After Metro's action to include the Property in the Urban Growth Boundary

To establish the value range for 20-acre parcels within the Clackamas rural area we selected all properties that sold in 2004 and 2005 within the one-mile buffer zone with a parcel size of 15 to 25 acres. These comprised 20 properties and their summary statistics are included below in Table 2.

Table 2: Summary Property Value/Acre Data – 20-Acre Parcels in One-Mile Buffer Area

Average Lot Size:	19.45 acres
Median Lot Size:	19.59 acres
Average Lot Value:	\$19,584
Median Lot Value:	\$13,885

Table 2A: Summary Property Value/Lot Data – Five-Acre Parcels in One-Mile Buffer Area

Average Lot Size:	4.57 acres
Median Lot Size:	4.59 acres
Average Lot Value:	\$232,151
Median Lot Value:	\$197,474

To be applicable to the Hanks property we need to adjust the lot values (up 10%) and for assessor under-valuation (15%). So a reasonable range for one buildable 7.57-acre lot is \$246,800 to \$290,200.

Alternative Valuation of Hanks 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 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 Hanks property actually experienced a loss of value after the Metro regulation.

Accordingly, we have tabulated property value data for the entire UGB expansion area from assessor's records for the years 2000 through 2006. We present data for properties similar to the Hanks' 19.99-acre property and their 7.57-acre parcel. For this analysis we have added together the 7.57-acre parcel, the 19.99 acre parcel and a 20.49 parcel that was sold in 2002. The latter parcel had a home built on it in 2002 that was entered in the assessor records in 2003. To make the data comparable we have subtracted the value of this additional residence for the period 2003 – 2006. Table 3 below depicts the results by year.

**Table 3: Hanks 20-Acre Minimum Property Value and Expansion Area Property Values
2000 –2006**

Year	Total Value	Value Per Acre	Average EFU Per Acre
2000	374,370	7,791	27,317
2001	700,840	14,586	33,782
2002	719,078	14,965	35,417
2003	644,281	13,408	35,793
2004	946,548	19,699	37,535
2005	994,613	20,699	39,778
2006	1,084,926	22,579	41,496

Both the Hanks property assessor's market value and the average value of parcels within the study area increase steadily from 2003 through 2006. There is no evidence that Metro's action to include the property within the UGB and impose a temporary minimum lot size of 20 acres has reduced property values. Figure A, attached, depicts the time trends graphically.

Hanks 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 Hanks property in its present situation and the situation prior to Metro's action. To do so we have followed the procedure below.

Assume the 7.57-acre parcel, which Metro designated as Employment Area with a Corridor overlay and allows high-density residential development, is developed at the Inner Neighborhood density level. Assume the 19.99-acre parcel is developed as Industrial and the existing improvement becomes a nonconforming use at the time of land conversion.

For all residential uses assume a cost of providing water, sanitary sewer, drainage, streets and other on site utilities plus SDC's of \$50,000 per buildable lot at Inner Neighborhood density. This is higher than the claimant has assumed, but more in line with recent trends in on-site development requirements and system development charges (SDCs).

For the situation prior to Metro's action, we assume no further division is allowed of the 19.99-acre parcel under the state's 20-acre minimum lot size and one house can be built on the 7.57-acre parcel, also under the state's 20-acre MLS. We assume 20 acres is valued at the per-acre value of lots in the one-mile buffer area that range from 15 – 25 acres (Table 2), and the value per parcel of 2.5 – 7.5 acres lots (for the 7.57 acre parcel).

To calculate the value of the 7.57 acres developable at Inner Neighborhood density, we use \$100,000 and \$110,000 (high) per developed lot based on comparables. This value is then discounted at 6.5% per year.

For the 19.99-acre parcel we assume a \$40,000 per acre raw land price based on comparables adjusted for access. 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 (10 years), at which time the improvements are demolished. The summed and discounted residential rents we add to the discounted land value.

Table 4 below depicts the results for low and high-range value assumptions for both Metro designations and county zoning with the state-mandated 20-acre MLS.

Table 4: Comparison of Estimated Market Value of Raw Land for Employment Area/Corridor and Industrial Area Designations and County Zoning with 20-Acre Minimum Lot Size

Employment Area/Corridor 7.57 Acre Parcel (Used as Inner Neighborhood)

Low Range:

Yield:	38 units
Value per Lot:	\$100,000
Development cost per lot:	\$50,000
Net value per developed lot:	\$50,000
Total Raw Land Value (38x50,000):	\$1,900,000
Current Market Value	
Discounted 10 years:	\$1,012,100
Value per acre (7.57 acres):	\$133,700

High Range:

Yield:	53 units
Value per Lot:	\$110,000
Development cost per lot:	\$50,000
Net value per developed lot:	\$60,000
Total Raw Land Value (53x60,000):	\$3,180,000
Current Market Value	
Discounted 10 years:	\$1,694,100
Value per acre (7.57 acres):	\$223,800

Industrial 19.99-Acre Parcel Used as Industrial

Parcel Size:	19.99 acres
Estimate of raw land value at	
Time of conversion (per acre):	\$40,000
Total value (19.99 x 40,000):	\$799,600
Discounted to time of conversion	
In 10 years:	\$426,000
Plus present value of 10 years net	
Rents from SFD improvement:	\$129,500
Total Value:	\$555,500
Value per acre (19.99 acres):	\$27,800

Resolution No. 06-3710: Attachment to Supplemental Report of the Chief Operating Officer

Combined 7.57 and 19.99 Acre Parcels

Low:

Total present value:	\$1,567,500
Value per acre (27.56 acres):	\$56,900

High:

Total present value:	\$2,249,600
Value per acre (27.56 acres):	\$81,600

19.99-Acre Parcel Subject to County Zoning and State 20-Acre MLS

Low:

Land per Acre:	\$13,900
Total Raw Land Value (20x13,900):	\$278,000
Plus assessor's value of remaining Property plus 15%:	\$650,000
Total Value of property:	\$928,000
Value per acre total (19.99 acres):	\$46,400

High:

Land per Acre:	\$19,600
Total Raw Land Value (20x19,600):	\$392,000
Plus assessor's value of remaining Property plus 15%:	\$650,000
Total Value of property:	\$1,042,000
Value per acre total (19.99 acres):	\$52,100

7.57-Acre Parcel Subject to County Zoning and State 20-Acre MLS

Yield: one homesite lot of 7.57 acres

Low Lot Value \$246,800

High Lot Value \$290,200

Hanks Property Combined Value

Low: \$1,174,800
Value per acre: \$42,600

High: \$1,332,200
Value per acre: \$48,300

Conclusion

Table 4 above indicates the property under the Metro designations has a value of \$57,000 to \$82,000 per acre. The property in its rural setting, with the zoning in effect at the time of Metro's action had a value of \$43,000 to \$48,000. Consequently, the Metro action did not reduce the value of the property. Likewise, the time trend from 2000 to 2006 reveals no loss of value per assessor's data for the period 2003 – 2006.