

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: February 15, 2007
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. FUTURE VISION UPDATE

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4. CONSENT AGENDA

4.1 Consideration of Minutes for the February 8, 2007 Metro Council Regular Meeting.

4.2 **Resolution No. 07-3779**, For the Purpose of Confirming the Appointment of Additional Members of the Brownfields Task Force.

5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 07-1138**, Amending Metro Code Chapters 5.01 and 5.05 to Ensure that Mixed Non-Putrescible Waste Material Recovery Facilities and Reload Facilities Are Operated in Accordance with Metro Administrative Procedures and Performance Standards Issued by the Chief Operating Officer, and to Make Related Changes.

5.2 **Ordinance No. 07-1139**, For the Purpose of Amending Metro Code Chapters 5.01 and 5.05 and the Regional Solid Waste Management Plan to Lift a Temporary Moratorium on Certain New Non-Putrescible Mixed Waste Material Recovery or Reload Facilities and Certain Non-System Licenses.

6. RESOLUTIONS

6.1 **Resolution No. 07-3774**, For the Purpose of Entering an Order Relating to the Richard L. and Sharon K. Kurtz Claim for Compensation under ORS 197.352 (Measure 37).

6.2 **Resolution No. 07-3775**, For the Purpose of Entering an Order Relating to the Nancy J. Rounsefell, Trustee of the James L. Rounsefell Trust and Nancy J. Rounsefell Claim for Compensation under ORS 197.352 (Measure 37).

7. ORDINANCES – SECOND READING

7.1 **Ordinance No. 07-1137A**, For the Purpose of Amending Metro Code Sections 3.07.120, 3.07.130 and 3.07.1120 and Adding Metro Code Section 3.07.450 to Establish a Process and Criteria for Changes to the Employment and Industrial Areas Map, and Declaring an Emergency. Newman

8. EXECUTIVE SESSION, HELD PURSUANT TO ORS 192.660(1)(h), TO CONSULT WITH LEGAL COUNSEL CONCERNING THE LEGAL RIGHTS AND DUTIES OF A PUBLIC BODY WITH REGARD TO CURRENT LITIGATION. Fjordbeck

9. CHIEF OPERATING OFFICER COMMUNICATION

10. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for February 15, 2007 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.tvctv.org -- (503) 629-8534 2 p.m. Thursday, Feb. 15 (live)</p>	<p>Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, Feb. 18 2 p.m. Monday, Feb. 19</p>
<p>Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, Feb. 19</p>	<p>Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, Feb. 17 11 p.m. Sunday, Feb. 18 6 a.m. Tuesday, Feb. 20 4 p.m. Wednesday, Feb. 21</p>
<p>Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

MINUTES OF THE METRO COUNCIL MEETING

Thursday, February 8, 2007
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Kathryn Harrington, Robert Liberty, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Laurence Tuttle, Center for Environmental Equity, 610 SW Alder #1021 Portland OR 97205 said he represented a small non-profit dealing with recycling. He talked about an article in Willamette Week yesterday. He was providing additional materials for the record. He talked about glass recycling. He felt it was time for the Metro Council to get the attention of Department of Environmental Quality (DEQ) management and make it clear that they shouldn't be recycling alone. Councilor Hosticka asked clarifying questions. He asked if there was a statutory or code requirement on the definition of recycling? Mr. Tuttle responded to his question.

3. CONSENT AGENDA

3.1 Consideration of minutes of the February 1, 2007 Regular Council Meeting.

Motion:

Councilor Park moved to adopt the meeting minutes of the February 1, 2007 Regular Metro Council.
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Vote:

Councilors Burkholder, Harrington, Liberty, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

4. ORDINANCES – SECOND READING

4.1 **Ordinance No. 06-1099B**, Amending Metro Code Section 5.02.075 Regarding Waivers of Fees for Disposal of Solid Waste from the Metro Region.

Motion:	Councilor Liberty moved to adopt Ordinance No. 06-1099B.
Seconded:	Councilor Newman seconded the motion

Councilor Liberty introduced the Ordinance and explained the changes.

Council President Bragdon opened a public hearing on Ordinance No. 06-1099B. No one came forward. Council President Bragdon closed the public hearing.

Councilor Liberty thanked staff for their efforts and urged an aye vote.

Vote:

Councilors Park, Hosticka, Burkholder, Harrington, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

4.2 **Ordinance No. 07-1137**, For the Purpose of Amending Metro Code Sections 3.07.120, 3.07.130 and 3.07.1120 and Adding Metro Code Section 3.07.450 to Establish a Process and Criteria for Changes to the Employment and Industrial Areas Map, and Declaring an Emergency

Motion to Amend:	Councilor Newman moved Ordinance No. 07-1137 with amendment proposed by MPAC and revised by staff.
Seconded:	Councilor Burkholder seconded the motion

Dan Cooper, Metro Attorney, explained that by amending the ordinance today, this ordinance would need to be held over at least one week for final adoption.

Councilor Newman introduced the ordinance and talked about the history of Title 4. He talked about amendments to the map and formalizing the process for amending the map. The ordinance also provided criteria by which Metro and local jurisdictions would amend the map. He explained that small parcel amendments would be considered by local jurisdictions while other larger parcels would come before Council for consideration. He said Metro Policy Advisory Committee (MPAC) had proposed three amendments (a copy of which is included in the meeting record). He provided details of those amendments. He urged approval. Councilor Hosticka asked Dick Benner, Metro Senior Attorney, about section B having to do with use. Mr. Benner responded to his question and concern. Councilor Burkholder clarified section C, suggested making the language clear about maintaining capacity on facilities. He felt the language was too liberal. He felt that capacity must be maintained. He had suggested, "is provided" versus "reasonably provided". Mitigation must be done. Councilor Newman responded to his concern. Councilor Burkholder provided clarifying language to make sure mitigation action should be taken. He suggested legal review the language again. Councilor Newman noted letters that had been received into the record.

Council President Bragdon opened a public hearing on Ordinance No. 07-1137.

Jack Hoffman, Dunn Carney, Portland Oregon 97201 encouraged Council to expedite adoption of Title 4 process ordinance. Once this was done, he urged adoption of the ordinance that would address the two pending map changes, one from Gresham and one from Portland. He urged Council consider these changes as soon as possible. He felt Title 4 ordinance was appropriate. Councilor Liberty asked if Mr. Hoffman was here on behalf of a client. Mr. Hoffman said yes he was here on behalf of Brick Works. He felt their application would be well drafted.

Mike Wells, NAIOP, 5285 Meadows Rd #330 Lake Oswego, OR 97035 said he supported the ordinance and encouraged adoption as well as the additional language suggested by MPAC. He shared his concerns about map amendments. He felt that parcels could be amended out of industrial use even if there was still good industrial use. He encouraged the language should indicate that if the land use was impractical for industrial use, then there should be an allowance of other use. Councilor Liberty talked about the staff report.

Jeff Bennett, P.O. Box 220609 Portland OR 97281 summarized his letter into the record (a copy of which is included in the record). Councilor Newman said the proposed changes he was

recommending seemed less likely for broad based changes but for one specific parcel. Mr. Bennett felt it was a policy question. Councilor Liberty asked if his client could meet the criteria? Mr. Bennett said his property could meet subsection C with his recommended amendment.

Beverly Bookin, CREEC 1020 SW Taylor St. Portland OR 96205 summarized her letter for the record (a copy of which is included in the record). She said CREEC continually supports these regulations. She talked about permitting mitigation. She was supportive of mitigation. Councilor Liberty mentioned Tim O'Brien's staff report and asked clarifying questions. Ms. Bookin responded to his question. She felt the regulations were tight but the impact could affect about 440 acres of land, which was a lot of land impact on industrial lands. Councilor Liberty said this would correct errors in mapping as well as look at opportunities to develop differently. Did CREEC have a preference on which they focused on? Ms. Bookin said the latter was more important to CREEC. She felt the process should be transparent and tight. Councilor Newman asked clarifying questions about mitigation intent. Ms. Bookin responded to his question. Councilor Park talked about freight capacity and industrial land use. Ms. Bookin added her comments.

Council President Bragdon closed the public hearing and recapped where they were in the process. Dan Cooper, Metro Attorney, said some of the recommended amendments in testimony today could be consider next week and still take final action next week. Councilor Burkholder said he would follow up on clarifying mitigation action. Councilor Liberty said at work session he expressed reservations but was aware they would reconsider this ordinance in a year so he was supportive. He was now hesitant to support this ordinance based on today's testimony. He felt the door was open too wide now. Councilor Newman said he was happy to work with Councilor Burkholder on his recommended changes and would consider this a friendly amendment. He felt this ordinance made a good faith attempt to protect industrial lands and deal with map changes. Councilor Hosticka asked a clarifying question about uses not allowed by Title 4.

Council President Bragdon announced that this ordinance would be held over.

5. RESOLUTIONS

- 5.1 **Resolution No. 07-3767**, For the Purpose of Entering Orders Relating to Claims by Alfred C. & Alveran F. Bothum; Donald B. Bowerman, W. Leigh Campbell & Ceille W. Bowerman; Ella Mae & Kenneth Larson; Arthur A. Lutz, James H. Gilbaugh, Jr., Linda Gilbaugh, Deanna S. Hval, Steven B. Hval & Scott R. Hval; Sharon Daily McCulloch-Gilson; MPR Development, Co.; Regis & Rosalie Raujol; and Kent Seida for Compensation Under ORS 197.352. Liberty

Motion:	Councilor Liberty moved to adopt Resolution No. 07-3767.
Seconded:	Councilor Newman seconded the motion

Councilor Liberty introduced the resolution. He said the Chief Operating Officer had recommended dismissal of the above-mentioned claims.

Vote: Councilors Park, Hosticka, Burkholder, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

Council President Bragdon explained the process for the next three pieces of legislation.

5.2 **Resolution No. 07-3772**, A resolution designating the Oregon Convention Center Headquarters Hotel Project as a Council Project and Assigning a Lead Councilor and Council Liaison.

Motion:	Councilor Park moved to adopt Resolution No. 07-3772.
Seconded:	Councilor Harrington seconded the motion

Councilor Park provided a copy of his remarks for the record. Reed Wagner, Metro Council Office, said he was acting project manager for this project addressing the convention center's long-term sustainability. Staff had considered the development of a Convention Center Hotel among other policy alternatives and believes the Hotel option warranted further research and analysis. Today the Council would decide whether or not to take the next step on this project. The Council would consider two resolutions and one ordinance. These resolutions would accomplish: accepting the Convention Center Hotel as an official Council project, accepting the competitive contracting process used by the Portland Development Commission (PDC) to select the development team; instructing staff to exclusively negotiate with the project team. Staff from our Metro Attorney's office and Contracts and Purchasing Manager will talk, specifically on this Resolution, and approving a Metropolitan Exposition Recreation Commission (MERC) budget amendment to allow Metro to contract with a private developer to perform an in depth market analysis and feasibility study. These resolutions do not commit Metro to the development of a hotel. These resolutions did allow Metro to gather more information and analysis to determine if this project was in the best interest of this agency and the region. The MERC commission had voted and recommended approval. Additionally, Council have received a large number of position letters from individuals and industry groups and would also receive testimony from, what he understood to be, a broad group of interests. These resolutions and ordinance allowed Metro to gather more information.

Alison Kean Campbell, Metro Senior Attorney, advised Council of legal requirements as the Contract Review Board. She noted the MERC Commission had already approved similar resolutions for contracting and budget. She explained the purposed of the contract resolution. This project would be classified by a special procurement. She said Council would have to consider future legislation if they decided to go forward with building the hotel. She noted state law requirements as to findings. She noted the development team was selected through a competitive process. She said the criterion for exempting public contracts were well met. She indicated that there were no appeals to the process. The contracting resolution would authorize Metro to accept the results of PDC's competitive process to our own competitive process. She further detailed what was included in the contract, Resolution No. 07-3748. Darin Matthews, Procurement Officer, talked about the procurement process and reiterated much of what Ms. Kean Campbell had talked about in her briefing. It had been a sound procurement process. Council President Bragdon noted that the Schlesinger group, one of the companies that were not awarded the contract, sent a letter of support. Councilor Liberty asked about the budget and scope. Mr. Wagner talked about the different policies alternatives to the headquarters hotel. Councilor Hosticka said the resolution and ordinance talk about negotiations with the development team. He wanted to be assured that negotiations included Intergovernmental Agreements.

Council President Bragdon opened a public hearing on Resolution No. 07-3772, Resolution No. 07-3748 and Ordinance No. 07-1140.

Mark Rosenbaum, Chair PDC Commission, Portland Oregon said he thought it was entirely appropriate that Council takes advantage of the hard work that PDC had done and that Metro Council takes advantage of this. He felt building from here was an excellent start. He suggested combining the convention hotel and convention center management into one. He said the private ownership model wasn't an option. He provided reasons for public ownership. They would also maintain financial line items that had been set up.

Gregg Mindt, Tri-County Lodging Association, 8565 SW Salich Wilsonville, OR 97070 expressed the lodging communities concern over a headquarters hotel. Members had concerns over a public owned 600-room hotel and the impact on private hotels. Councilor Newman talked about bringing people into the region. Mr. Mindt said the lodging community wanted the convention center to succeed. Councilor Harrington asked if his organization had any comment with the market study on room rates on the order of 600 rooms or more. Mr. Mindt said they understood that that room block demanded was at least a 500-room block. Councilor Liberty talked about financing from the lodging industry. Mr. Mindt responded to his question. He talked about a publicly owned hotel ability to compete during non-convention times. Councilor Liberty expected the lodging community's to contribute financially.

Connie Hunt 727 SE Grand Portland OR 97214 Vice Chair of POVA shared some statistics about restaurants. She said hospitality was good for Oregon. Restaurants were the first to reflect the vitality of a community. She talked about the positive effects of conventions on her business. She felt this was a vital project. We must explore public ownership. We must have a headquarters hotel. This would also connect with a number of projects such as the eastside streetcar.

Brian McCartin, Portland Oregon Visitors Association (POVA) 1000 SW Broadway Portland OR 97205 explained why they needed a convention headquarter hotel. He talked about convenience of the hotel. He encouraged Council to move forward with this project.

Jeff Miller, POVA 1000 SW Broadway Portland OR 97205 noted the letter as approved by the POVA directors. They would remain as an organization closely involved. They also understood how they would market all of the hotels in the region. Councilor Liberty said they wanted the convention center to succeed and was POVA going to look at other opportunities if we didn't have a headquarters hotel? We have to improve our package to sell the convention center. He felt the economic package of having a convention hotel would impact the viability of the region. Councilor Liberty asked about the possibility of smaller hotels. Mr. Miller responded to his question.

George Forbes, MERC Commissioner, 29 Da Vinci, Lake Oswego, OR 97035 said he had been in this business over 40 years. He had been involved in this process since September 2004. He was the past chair of POVA and Tri-County Lodging. He urged Metro to take ownership of this headquarters hotel project. He gave credit to PDC staff. A lot of what they did to keep this process moving would bode well for the future. Councilor Liberty asked him about bearing the risk if things didn't work out. Was the industry committed to bearing the risk? Mr. Forbes said it was a cyclical business. He felt the headquarters hotel would add conventions, which would impact the viability of the region.

Todd Davidson, Travel Oregon, 670 SE Hawthorne, Salem, OR 97301 said he served as the Executive Director of the Oregon Tourism Commission. He spoke to the economic impacts of visitors coming to Oregon. He talked about the intent of the construction of the convention center and the impact on the region. The sustained viability of the convention center must include a headquarters hotel.

Wanda Rosenbarger, Lloyd Center, 2201 Lloyd Center Portland OR 97232 thanked Metro for taking the lead to move forward with the convention center hotel. Tourism dollars were important to our economy. The creation of a hotel would promote more jobs and strengthen the economy of the region. PDC had conducted a thorough process. On behalf of Lloyd Center and 200 businesses she urged Council to move forward.

Justin Zeulner, Rose Quarter, One Center Court Suite 150, Portland OR 97213 summarized comments submitted in writing (a copy of his letter is included in the record). He added that they were in the same industry as the convention center. He felt this would be a very good fit. The Lloyd District needed this development and would spur additional economic development.

Jeff Kounstamm, Timberline Lodge, Timberline OR 97028 said he operated Timberline Lodge and had served on POVA Board. He knew exactly what convention was happening if it was an overnight hotel. He complimented PDC for their work on the issue. He felt this was not only a regional issue but also a statewide issue.

Scott Langley, President of Ashforth Pacific, 825 NE Multnomah Portland OR 97232 thanked PDC for their hard work on this effort. He thanked Metro Council for providing this public hearing. The development team was ready to serve. Council President Bragdon asked what he would like this neighborhood to be like in the next 15 years. Mr. Langley responded to his question. Councilor Liberty said there had been a remarkable change in the Lloyd District. Mr. Langley talked about Ralph Lloyd's vision of this district. The Lloyd District was a dynamic area that was prepared for growth. They had invested in the area. They thought of this project as a project for the city and the region. They responded to this project from a Release For Proposal from the City. They believed the public project was the most feasible. The public model provided a control element of the operation as well as a return on investment. Councilor Park asked Mr. Langley to articulate the pitfall of moving a private project forward. Mr. Langley said a convention hotel was much different from other markets. He talked about risk involved. The cost to capital was such that was the largest chunk of that gap.

Rick Williams, Lloyd TMA, 700 NE Multnomah, Portland OR 97232 said their support was unflagging for this project. The TMA represented over half the employment in this district. He said every plan over the past 12 years called for a convention center. He noted what they had done to improve the district. This community was ready to work with Metro Council on this project. They urged Council's support for this project.

Tim Ramis, Ramis Crew Corrigan, 1727 NW Hoyt Portland OR 97209 said ownership of downtown hotel properties. This group favored the success of the convention center. They also favored Plan B, which was the development of a private hotel with minimum public subsidy. He urged Council to look at all options. He suggested looking at other cities with convention centers and determined whether there were other options available. He recommended some changes to Resolution No. 07-3748. He said if they were truly going to exam all of the options he suggested not endorsing the 600 room hotel and the privately owned option. Councilor Newman commented on Jeff Miller's testimony about the impact on a 300-room hotel and asked Mr. Ramis what he

thought about this testimony. Mr. Ramis responded to his question and talked about alternative strategies. He felt the public expected Council to take a prudent approach. He talked about the high risk of expecting “if you will build, they will come” wasn’t true. There had to be something more than just providing rooms. Councilor Newman asked that he participate in reviewing the Performa. Mr. Ramis said he would be happy to participate if asked. Councilor Harrington echoed Councilor Newman comments. She asked if he could provide clarity on the specifics of projections. Councilor Liberty asked if there had been enough public owned hotels operating long enough to look at successes. Mr. Ramis said he did not think so. Councilor Liberty asked about other options for the convention center gap. Mr. Ramis said the availability of hotel rooms is important but the other factor was direct subsidy to the convention group such as transportation. Councilor Park talked about incentives that were being offered. He said Mr. Ramis had mentioned looking at what was going on in the local area. Mr. Ramis said they would work with Council on providing additional information.

Don Trotter, MERC Commissioner, 12102 SE 36th Milwaukie OR addressed two issues, the ordinance requesting a budget amendment for MERC and Resolution No. 07-3748. Councilor Liberty and Council President Bragdon said they were interested in getting good solid information. In choosing a consultant it was important to get good objective information. They want the best answers.

Council President Bragdon closed the public hearing.

Councilor Park asked Mr. Cooper about the recommended amendment by Mr. Ramis. How would that removal effect the “be it resolve” portion. Mr. Cooper said as a legal matter the “whereas” in the resolution didn’t matter. The findings were drafted because they thought it bolstered the legal actions. They wanted to make their findings as strong as possible. They were looking at the feasibility of the Headquarters Hotel. They were viewing this resolution as direction from Council to look at the feasibility of a headquarters hotel. Councilor Park asked if was appropriate to strike Metro and leave MERC and PDC. Mr. Cooper said no.

Councilor Newman talked about what they weren’t doing today. They were taking next steps too due diligence. He would be voting yes. He wasn’t too enthusiastic about the project. If he made a decision to support it, it would be based on the information that was provided. His decision would be based on the risk of this agency. He was willing to take the step today to get to an answer. He wanted to reiterate Plan B as well as help with the convention center gap. He urged independence and credibility of who was doing this work was very important. He had trust in POVA but he would like more due diligence.

Councilor Hosticka echoed Councilor Newman’s comments. He wouldn’t oppose the legislation today but he was a skeptic. He explained why he was a skeptic. He was not willing to put a lot of what he did as a Metro Councilor at risk. He wanted a strong firewall between what Metro did and this project. He also wanted to get a time schedule of when Council makes that decision. He wanted to make sure Metro was protected and that we had the best information possible.

Councilor Harrington thanked all of those who had participated in this process. She asked why were they doing this? They were responsible for oversight of public assets. They needed to solve our problem and be good stewards of convention center.

Councilor Liberty said what they were hearing was that Metro Council was not willing to take too large a risk. He shared his skepticism about the current information that had been provided.

Council President Bragdon said he would be voting yes on the three pieces of legislation. He shared his philosophy on having government involved in this process. He needed to be assured that there would be new dollars and maximize our returns on the existing asset that the public had been involved in. We were stewards of the public trust. He hoped it turned out that the research showed that headquarters hotel was one of the solutions. He thanked staff and Councilor Park for putting in a lot of time. They need to be doing this work in an objective skeptical sense.

Councilor Liberty offered a friendly amendment to Resolution No. 07-3748. The maker and seconder of the motion accepted the friendly amendment.

Councilor Park thanked the staff for all of their efforts. We were trying to attract more visitors and conventioners to Portland. He talked about his personal experience with the convention center and the need for the headquarters hotel. He felt a hotel would add to the success of the convention center. He wasn't so sure that Metro could stay in the convention business.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6. CONTRACT REVIEW BOARD

- 6.1 **Resolution No. 07-3748**, Resolution of Metro Council, Acting as the Metro Contract Review Board, Adopting Findings Granting An exemption To the Metro and MERC Contracting Rules, Authorizing Acceptance of PDC's contracting process, Authorizing Exclusive negotiations with the Selected Project Team, and authorizing use of Alternative Contracting Methods for Design, Construction, Management, Operation and Financing of the OCC Headquarters Hotel.

Motion:	Councilor Park moved to adopt Resolution No. 07-3748.
Seconded:	Councilor Harrington seconded the motion

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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7. ORDINANCES – SECOND READING CONTINUED

- 7.1 **Ordinance No. 07-1140**, For the purpose of Amending the FY 2006-07 Budget and Appropriations Schedule amending the Metropolitan Exposition Recreation Commission (MERC) operating fund and Declaring an Emergency

Motion:	Councilor Park moved to adopt Ordinance No. 07-1140.
Seconded:	Councilor Harrington seconded the motion

Vote:

Councilors Park, Hosticka, Burkholder, Harrington, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye,
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the motion passed.

8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, was not present.

9. COUNCILOR COMMUNICATION

Councilor Liberty said he had met with the Columbia River Crossing staff about alternative analysis of the project.

Councilor Burkholder talked about this morning's Joint Policy Advisory Committee on Transportation (JPACT) meeting. He noted that there was a public hearing on Metropolitan Transportation Improvement Program (MTIP) next Tuesday, February 13th at 5:30pm.

Councilor Harrington spoke on behalf of Council before the House Energy Committee on electronic waste.

10. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:03 p.m.

Prepared by

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
FEBRUARY 8, 2007**

Item	Topic	Doc. Date	Document Description	Doc. Number
3.1	Minutes	2/1/07	Metro Council Meeting Minutes of February 1, 2007	020807c-01
5.2, 6.1, 7.1	Letter	1/26/07	To: Council President Bragdon From: Harold Pollin, Sheraton Portland Airport Hotel Re: Supporting Headquarters Hotel project	020807c-02
5.2, 6.1, 7.1	Letter	2/2/07	To: Council President Bragdon From: Matthew D Nickeson President and CEO of Liberty Northwest Re: supporting headquarters hotel project	020807c-03
5.2, 6.1, 7.1	Letter	2/1/07	To: Council President Bragdon From: Rick Williams Executive Director of Lloyd BID Inc Re: supporting headquarters hotel project	020807c-04
5.2, 6.1, 7.1	Letter	2/2/07	To: Council President Bragdon From: Scott Langley et al, Lloyd Executive Partnership Re: supporting headquarters hotel project	020807c-05
5.2, 6.1, 7.1	Letter	2/1/07	To: Council President Bragdon From: Wanda Rosenbarger, Chair Lloyd TMA Re: supporting headquarters hotel project	020807c-06
5.2, 6.1, 7.1	Letter	2/2/07	To: Council President Bragdon From: Pat Reiten President of Pacific Power Re: support headquarter hotel project	020807c-07
5.2, 6.1, 7.1	Letter	2/5/07	To: Council President Bragdon From: Clinton Shultz, Chair Lloyd District Community Association Re: support headquarters hotel project	020807c-08
5.2, 6.1, 7.1	Letter	2/6/07	To: Metro Council From: Sandra McDonough, Portland Business Alliance Re: support headquarters hotel project	020807c-09
5.2, 6.1, 7.1	Letter	2/6/07	To: Council President Bragdon From: OCC Advisory Committee Re: support headquarter hotel project	020807c-10
5.2, 6.1, 7.1	Letter	2/6/07	To: Council President Bragdon From: JE Issac, Senior Vice President of Trail Blazers Re: support headquarter hotel project	020807c-11
5.2, 6.1, 7.1	Email	2/7/07	To: Councilor Liberty From: Kelly Wellington Re: opposing Metro's involvement in headquarters hotel project	020807c-12
5.2, 6.1, 7.1	Letter	2/6/07	To: Council President Bragdon From:	020807c-13

			Barry Schlesinger, BPM Development Re: support headquarters hotel project	
5.2, 6.1, 7.1	Letter	2/7/07	To: Council President Bragdon From: Douglas Obletz, President Shiels Oblietz Johnson Inc Re: support headquarters hotel project	020807c-14
5.2, 6.1, 7.1	Letter	2/8/07	To: Metro Council From: Samuel Brooks, President of Oregon Association of Minority Entrepreneurs Re: support headquarters hotel project	020807c-15
5.2, 6.1, 7.1	Letter	2/7/07	To: Council President Bragdon From: Justin Zeuler, Director of Property Services Global Spectrum Re: support headquarters hotel project	020807c-16
5.2, 6.1, 7.1	Letter	2/8/07	To: Council President Bragdon From: Jordan Schrader. Attorney at Law Re: Ordinance No. 07-1137 suggested amendments	020807c-17
5.2, 6.1, 7.1	Letter	2/6/07	To: Council President Bragdon From: Larry Bouton FMA Re: support headquarters hotel project	020807c-18
4.2	Letter	2/7/07	To: Council President Bragdon From: Meg Fernekees, DLCD Re: comments on Ordinance No. 07-1137	020807c-19
2	Recycling Packet	2/8/07	To: Metro Council From: :Larry Tuttle, Center for Environmental Equity Re: Glass recycling	020807c-20
4.2	Amendments	2/8/07	To: Metro Council From: Dick Benner, Metro Senior Attorney Re: Amendments to Ordinance No. 07-1137 recommended by MPAC	020807c-21
4.2	Letter	2/8/07	To: Metro Council From: Beverly Bookin, CREEC Re: recommended changes to Ordinance No. 07-1137	020807c-22
5.2, 6.1, 7.1	Talking points	2/8/07	To: Metro Council From: Councilor Park Re: Talking points on headquarters hotel	020807c-23
4.2	Amendments	2/8/07	To: Metro Council From: Dick Benner, Metro Senior Attorney, Re: Amendments to Ordinance No. 07-1137 recommended by MPAC revised by staff	020807c-24

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 07-3779
APPOINTMENT OF ADDITIONAL MEMBERS)
OF THE BROWNFIELDS TASK FORCE) Introduced by Michael Jordan, Chief
Operating Office with the concurrence of
Council President Bragdon

WHEREAS, establishing a Brownfields Program that complements ongoing efforts by cities and counties in the Metro region will enhance the efficient use of land, eliminate environmentally contaminated sites and generate additional tax revenues for local governments; and

WHEREAS, identifying and prioritizing Brownfields in the Metro region is an important part of increasing the developable short-term land supply in the region and could provide significant redevelopment opportunities for affordable housing in local communities; and

WHEREAS, the Metro Council, by Resolution No. 05-3644 (For the Purpose of Establishing a Brownfields Program and a Brownfields Task Force), adopted on December 1, 2005, directed the Chief Operating Officer to develop a strategic work program and a draft membership list for the Brownfields Task Force;

WHEREAS, Metro received a grant from the U.S. Environmental Protection Agency for the purpose of developing and maintaining a region-wide inventory of Brownfields, and prioritization and assessment of select sites; and

WHEREAS, a notice soliciting membership in the Brownfields Task Force was distributed on January 3, 2007;

WHEREAS, the Metro Council, by Resolution No. 07-3765A, adopted on January 25, 2007, established the duties and responsibilities of the Brownfields Task Force and confirmed appointment of its initial members; and

WHEREAS, the Council President has appointed Ms. Gisel Hillner, Ms. Cara Nolan, and Mr. David Pollock to be additional members of the Brownfields Task Force; now, therefore

BE IT RESOLVED that the Metro Council confirms the appointment of Ms. Gisel Hillner, Ms. Cara Nolan, and Mr. David Pollock to be additional members of the Brownfields Task Force.

ADOPTED by the Metro Council this 15th day of February 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3779, FOR THE PURPOSE CONFIRMING APPOINTMENT OF ADDITIONAL MEMBERS OF THE BROWNFIELDS TASK FORCE

Date: February 7, 2007

Prepared by: Lisa Miles

BACKGROUND

The Metro Council adopted Resolution No. 07-3765A, For the Purpose of Establishing the Duties and Responsibilities of the Brownfields Task Force, and Confirming Appointment of Its Members on January 25, 2007.

The purpose of the Brownfields Task Force (BTF) to provide guidance in developing and implementing the brownfield program, including:

- Provide recommendations on developing and maintaining a region-wide brownfields inventory;
- Review criteria for selecting brownfields sites for further assessment;
- Prioritize sites for environmental assessments;
- Provide recommendations regarding redevelopment of brownfields sites throughout local communities.

In recommending members for the BTF, staff carefully considered the varied expertise and perspectives that will be helpful to support the efforts of Metro's Brownfields Program. The 11 members appointed to the Brownfields Task Force under Resolution No. 07-3765A represent a range of experience in environmental and regulatory aspects of brownfields, economic development, affordable housing, construction project management, real estate, banking/investing, local government and community development. However, as the Metro Council discussed Resolution 07-3765A, prior to passing the resolution, the Council President suggested that the task force would be strengthened if additional members were appointed to bring added expertise in the industrial lands and banking/finance sectors. Ms. Gisel Hillner is a manager of Key Bank in Lake Oswego, Ms. Cara Nolan is an industrial lands broker with Capacity Commercial Group in Portland, and Mr. David Pollock is the former President and CEO of Stormwater Management, Inc.

ANALYSIS/INFORMATION

1. **Known Opposition**

There is no known opposition to the appointment of these members.

2. **Legal Antecedents**

The appointment of the additional members of the Brownfields Task force is consistent with Metro Council Resolution No. 05-3644, For the Purpose of Establishing a Brownfields Program and a Brownfields Task Force, as well as Resolution No. 07-3765A referenced above.

3. **Anticipated Effects**

The BTF will contribute valuable expertise to help to shape the work of Metro's Brownfields Program. Identifying brownfields sites throughout the Metro region and assessing the level of contamination of select sites will lay the groundwork for possible future redevelopment of such sites, and thus support Metro's efforts to focus development and investment in existing Centers and Corridors.

4. **Budget Impacts**

Staff resources for this program will be provided from staff assignments that are included in the 2006/2007 budget for economic development. Grant funds will cover costs of interns; data resource center staff time to support mapping; communications efforts and consultants to complete this work.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 07-3779.

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTERS 5.01 AND)
5.05 TO ENSURE THAT MIXED NON-)
PUTRESCIBLE WASTE MATERIAL RECOVERY) ORDINANCE NO. 07-1138
FACILITIES AND RELOAD FACILITIES ARE)
OPERATED IN ACCORDANCE WITH METRO) Introduced by Michael Jordan,
ADMINISTRATIVE PROCEDURES AND) Chief Operating Officer, with the
PERFORMANCE STANDARDS ISSUED BY THE) concurrence of David Bragdon,
CHIEF OPERATING OFFICER, AND TO MAKE) Council President
RELATED CHANGES.)

WHEREAS, on February 2, 2006, the Metro Council imposed a temporary moratorium until December 31, 2007, on all new mixed non-putrescible waste material recovery facilities and new mixed non-putrescible waste reloads in the region; and

WHEREAS, the moratorium was imposed by Council in order to: 1) provide time to conclude the Disposal System Planning project, 2) establish an enhanced dry waste recovery program, and 3) allow for the publication of non-putrescible waste facility standards; and

WHEREAS, the Metro Council directed staff to publish facility standards and application requirements that assure mixed dry waste facilities (non-putrescible material recovery facilities and reload facilities) consistently handle, reload or recover material without creating nuisance impacts or harm to people or the environment; and

WHEREAS, section 5.01.132 of the Metro Code directs the Chief Operating Officer to issue administrative procedures and performance standards governing the obligations of licensees and franchisees; and

WHEREAS, publication of the standards will provide a clear and level playing field for facilities and clarify the requirements prospective applicants must meet in advance of filing an application with Metro; and

WHEREAS, issues of persistent concern for both non-putrescible waste material recovery facilities and reload facilities are now addressed in the proposed standards including: 1) dust and blowing debris generated from on-site traffic and the tipping and processing of dry waste, 2) insufficient on-site capacity for reloading or processing, 3) contamination or degradation of unprocessed waste by other solid waste or wind and precipitation, and 4) inadequate load checking for prohibited or hazardous wastes; and now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code section 5.01.067 shall be amended as follows:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within ten (10) days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer. **In addition to all other**

requirements of this Section, a license approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

- (1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
- (2) Health and safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.
- (4) Material recovery. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

(j) The term of a new or renewed License shall be not more than five years.

(k) Notwithstanding any other provision in this Section, no authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading shall be granted during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.

SECTION 2. Metro Code section 5.05.075 shall be amended as follows:

5.01.075 Contents of Franchise

(a) The Franchise shall constitute a grant of authority from the Council to accept the Waste(s) and perform the Activity(s) described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.

(b) Franchises approved by the Council shall be in writing and shall include the following:

- (1) The term of the Franchise;
- (2) The specific Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;
- (3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and
- (4) Indemnification of Metro in a form acceptable to the Metro Attorney.

(c) In addition to all other requirements of this Section, a franchise approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

- (1) **Environment.** Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
- (2) **Health and safety.** Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.
- (3) **Nuisances.** Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors and noise.
- (4) **Material recovery.** Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.

- (5) **Reloading.** Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) **Record keeping.** Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

SECTION 3. Metro Code section 5.01.132 shall be amended as follows:

5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

(a) The Chief Operating Officer ~~shall~~ may issue administrative procedures and performance standards governing the obligations of Licensees and Franchisees under this chapter, including but not limited to procedures and performance standards for nuisance control, public notification of facility operations, management of unacceptable wastes, facility record keeping and reporting, yard debris composting operations, **non-putrescible waste material recovery, non-putrescible waste reloading**, transportation of Putrescible Waste, and designation and review of Service Areas and demand pursuant to Section 5.01.131 of this chapter.

(b) The Chief Operating Officer may issue administrative procedures and performance standards to implement all provisions of this chapter.

(c) The Chief Operating Officer shall substantially amend the administrative procedures and performance standards issued under subsections (a) or (b) of this section only after providing public notice and the opportunity to comment ~~and a public hearing~~ on the proposed amendment.

(d) **The Chief Operating Officer may hold a public hearing on any proposed new administrative procedure and performance standard or on any proposed amendment to any administrative procedure and performance standard, if the Chief Operating Officer determines that there is sufficient public interest in any such proposal.**

SECTION 4. Metro Code Section 5.05.030 shall be amended as follows:

5.05.030 Designated Facilities of the System

(a) Designated Facilities. The following described facilities constitute the designated facilities of the system, the Metro Council having found that said facilities meet the criteria set forth in Metro Code Section 5.05.030(b):

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.

- (3) Facilities Subject to Metro Regulatory Authority. All disposal sites and solid waste facilities within Metro which are subject to Metro regulatory authority under Chapter 5.01 of the Metro Code.
- (4) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of an agreement between Metro and the owner of Lakeside Reclamation authorizing receipt of solid waste generated within Metro.
- (5) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of an agreement between Metro and the owner of Hillsboro Landfill authorizing receipt of solid waste generated within Metro.
- (6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989, between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc. In addition, Columbia Ridge Landfill may accept special waste generated within Metro:
 - (A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.
- (7) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, located in Klickitat County, Washington. Roosevelt Regional Landfill may accept special waste generated within Metro only as follows:
 - (A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.
- (8) Finley Buttes Regional Landfill. The Finley Buttes Regional Landfill, located in Morrow County, Oregon. Finley Buttes Regional Landfill may accept special waste generated within Metro only as follows:
 - (A) As specified in an agreement entered into between Metro and Finley Buttes Landfill Company authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

- (9) Coffin Butte Landfill. The Coffin Butte Landfill, located in Benton County, Oregon, which may accept solid waste generated within the District only as follows:
- A) As specified in an agreement entered into between Metro and the owner of the Coffin Butte Landfill authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility special wastes not specified in the agreement.
- (10) Wasco County Landfill. The Wasco County Landfill, located in The Dalles, Oregon, which may accept solid waste generated within the District only as follows:
- (A) As specified in an agreement entered into between Metro and the owner of the Wasco County Landfill authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.
- (11) Cedar Grove Composting, Inc. The Cedar Grove Composting, Inc., facilities located in Maple Valley, Washington, and Everett, Washington. Cedar Grove Composting, Inc., may accept solid waste generated within the District only as follows:
- (A) As specified in an agreement entered into between Metro and Cedar Grove composting, Inc., authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to Cedar Grove Composting, Inc., solid wastes not specified in the agreement.
- (12) Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill, located in Castle Rock, Washington, and the Weyerhaeuser Material Recovery Facility, located in Longview, Washington. The Weyerhaeuser Material Recovery Facility is hereby designated only for the purpose of accepting solid waste for transfer to the Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill and the Weyerhaeuser Material Recovery Facility may accept solid waste generated within the District only as follows:
- (A) As specified in an agreement entered into between Metro and Weyerhaeuser, Inc., authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the Weyerhaeuser Regional Landfill or the Weyerhaeuser Material Recovery Facility solid wastes not specified in the agreement.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to or delete a facility from the list of designated facilities. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and
- (7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

(c) The Chief Operating Officer is authorized to execute an agreement, or an amendment to an agreement, between Metro and a designated facility for Non-putrescible waste. An agreement, or amendment to an agreement between Metro and a designated facility for Putrescible waste shall be subject to approval by the Metro Council prior to execution by the Chief Operating Officer.

(d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(e) **An agreement between Metro and a designated facility that authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall demonstrate substantial compliance with facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities.**

SECTION 5. Metro Code Section 5.05.035 shall be amended as follows:

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;
- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
 - (A) The total tonnage if the application is for a limited duration non-system license; or
 - (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities.

(b) Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

- (1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.
- (2) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars (\$100).
- (3) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).
- (4) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in Section 5.01.150, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.

(c) Factors to Consider To Determine Whether to Issue Non-System License. The Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to determine whether or not to issue a non-system license:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;
 - (2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;
 - (3) The adequacy of operational practices and management controls at the non-system facility;
 - (4) The expected impact on the region's recycling and waste reduction efforts;
 - (5) The consistency of the designation with Metro's existing contractual arrangements;
 - (6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and
 - (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.
- (d) Timetables To Determine Whether to Issue a Non-System License.
- (1) Non-system licenses for Non-putrescible waste, Special waste, Cleanup Material Contaminated By Hazardous Substances, or any other solid waste other than Putrescible waste.
 - (A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination within 60 days after receipt of a new completed application, including receipt of any additional information required by the Chief Operating Officer in connection therewith.
 - (B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 60 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Chief Operating Officer shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Chief Operating Officer is not obligated to make a

determination earlier than the expiration date of the existing license even if the renewal request is filed more than 60 days before the existing license expires.

- (2) Non-system licenses for Putrescible waste. The Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue or renew a non-system license for Putrescible waste. If the Chief Operating Officer recommends that the non-system license be issued or renewed, the Chief Operating Officer shall recommend to the council specific conditions of the non-system license.
 - (A) New licenses. The Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination within 120 days after receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith.
 - (B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 120 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Council shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Council is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.
- (3) At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a new or renewed non-system license as deemed necessary or appropriate under the circumstances.

(e) Issuance of Non-System License; Contents. Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;

- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than:
 - (A) 120 days from the date of issuance for a limited-duration non-system license;
 - (B) Three years from the date of issuance for a new full-term license; and
 - (C) Two years from the date of issuance of a renewed full-term non-system license.
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(f) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month; and
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.
- (4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary, the load in its entirety shall be reported to Metro by the non-system licensee as having been generated within the Metro boundary

and the Regional System Fee and Excise Tax shall be paid on the entire load unless the licensee provides Metro with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or unless Metro has agreed in writing to another method of reporting.

(g) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and
- (2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

- (h) Notwithstanding any other provision in this Section, and unless contrary to any other applicable law, the Chief Operating Officer shall not accept any application for, and neither the Chief Operating Officer nor the Metro Council shall issue a non-system license for mixed putrescible solid waste or mixed non-putrescible solid waste that has not first been delivered to a Metro licensed or franchised

Processing facility for material recovery during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that a licensee may request, and the Chief Operating Officer or Metro Council may issue, a replacement license with an effective date beginning the day after an existing license expires if the replacement license is to authorize the licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing license. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.

ADOPTED by the Metro Council this ____ day of _____, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO.07-1138, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTERS 5.01 AND 5.05 TO ENSURE THAT NON-PUTRESCIBLE MIXED WASTE MATERIAL RECOVERY FACILITIES AND RELOAD FACILITIES ARE OPERATED IN ACCORDANCE WITH ADMINISTRATIVE PROCEDURES AND PERFORMANCE STANDARDS ISSUED BY THE CHIEF OPERATING OFFICER AND TO MAKE RELATED CHANGES

Date: January 18, 2007

Prepared by: Bill Metzler

INTRODUCTION

The purpose of Ordinance No.07-1138 is to amend Chapters 5.01 and 5.05 of the Metro Code to ensure that material recovery facilities (MRFs) and reload facilities (reloads) accepting mixed non-putrescible waste generated in the Metro region are operated in accordance with the facility standards and operating requirements to be issued by Metro's Chief Operating Officer (COO) as provided in Metro Code Section 5.01.132.

The COO will issue the facility standards within 90 days of adoption of this ordinance by the Metro Council (the effective date of the ordinance). An overview of the facility standards is attached to this staff report (see Attachment 1).

In addition, Chapter 5.01 of the Metro Code will be amended to articulate six general performance goals for MRFs and reloads that describe the broad expectations for these facilities. They are:

- (1) *Environment*. Facilities shall be designed and operated to preclude the creation of undue threats to the environment (such as stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste and asbestos).
- (2) *Health and safety*. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety (such as fires, vectors, and airborne debris).
- (3) *Nuisances*. Facilities shall be designed and operated to preclude the creation of nuisance conditions (such as litter, dust, odors, and noise).
- (4) *Material recovery*. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered from solid waste in a timely manner, to meet the standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) *Reloading*. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) *Record keeping*. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

Development and issuance of the facility standards

The facility standards issued by the COO will be more detailed than the six general performance goals listed above, and include: 1) issue specific performance goals, 2) performance standards and operating conditions, 3) standard operating condition templates (license agreement), and 4) standard application form templates.

Issuance of the facility standards will help assure that MRFs and reloads consistently handle, reload or recover material without creating nuisance impacts or harm to people or the environment. They will also provide a clear and level playing field for facilities and clarify the requirements prospective applicants must meet in advance of filing an application with Metro. Region-wide standards ensure a minimum level of consistency, however, individual jurisdictions may still impose more strict regulations.

The facility standards were developed with input from a workgroup consisting of representatives from the solid waste industry and local governments. The workgroup included: Vince Gilbert (East County Recycling), Howard Grabhorn (Lakeside Landfill), Allen Kackman (Elder Demolition), Dean Kampfer (Waste Management), Scott Keller (City of Beaverton), Wendie Kellington (Lakeside Landfill), Theresa Kopang (Washington County), Michael Leichner (Pride Recycling), Mark McGregor (Clean-It-Up-Mark), Audrey O'Brien (DEQ), Ray Phelps (Willamette Resources, Inc.), and David White (ORRA).

In general, the standards are supported by members of the workgroup, and the standards have been reviewed and passed unanimously by the Metro Solid Waste Advisory Committee. In addition, Metro has also received letters of support from the DEQ and local government partners.

The standards are largely based on provisions found in existing Metro licenses and franchises for material recovery facilities and reload facilities. However, with input from the workgroup, the standards include some new provisions that are needed based on Metro's regulatory experience with non-putrescible waste handling facilities. Seven of the ten existing private material recovery and reload facilities already meet the standards.¹ All new non-putrescible mixed waste handling facilities will be required to meet the standards in order to operate.

Major new requirements

- ❑ The major new operating standard will require dry waste facilities to conduct operations inside a building and on an impervious pad (asphalt or concrete). The building and pad requirements are intended to address common material recovery facility and reload facility problems related to off-site noise, dust, odor, nuisance, environmental and unprocessed material contamination.
- ❑ Existing facilities like East County Recycling, are provided a two-year time frame for compliance with the building and pad requirements.
- ❑ The ordinance provides that an applicant for a Metro non-system license to transport non-putrescible waste generated inside the region; or a designated facility outside the region accepting non-putrescible waste that has not yet undergone material recovery, is not processing residual and originated or was generated in the Metro boundary must provide documentation that the facility is in substantial compliance with the standards issued by the COO.

¹ There are nine existing private facilities that conduct material recovery from non-putrescible mixed waste: Aloha Garbage, Columbia Environmental (not yet operational), East County Recycling, KB Recycling, PLC III (not yet operational), Pride Recycling, Troutdale Transfer Station, Wastech and Willamette Resources, Inc. There is one existing non-putrescible mixed waste reload :Greenway Recycling, LLC. Of these ten facilities, all but three meet the standard requiring a building and pad: Aloha Garbage, East County Recycling, and Greenway Recycling, LLC.

In addition, Metro Code section 5.01.132 – Adoption of Administrative Procedures and Performance Standards by the Chief Operating Officer will be amended so that provisions for the public hearing requirement related to amending administrative procedures and new administrative procedures will be more consistent, and based on sufficient public interest. The existing code provisions in 5.01.132 (b) and (c) requires that only substantially amended procedures and standards require a public hearing - while new procedures and standards do not.

BACKGROUND

Temporary moratorium imposed on certain dry waste facilities

On February 2, 2006, the Metro Council imposed a temporary moratorium, until December 31, 2007, on all new mixed dry waste MRFs and reloads in the region. The moratorium was imposed by Council in order to: 1) provide time to conclude the Disposal System Planning project, 2) establish an enhanced dry waste recovery program, and 3) allow for the publication of up-to-date facility standards.

Issues with dry waste handling facilities

Experience has shown that one of the most persistent problems from uncovered facilities is dust and airborne debris, generated on-site, that inevitably drifts off-site and settles on adjacent properties. Uncovered facilities have proven to have a more difficult time employing adequate control measures that contain dust and its resulting nuisance and health impacts.

Attention to preventing these problems has been intensified with several recent license applications to Metro to operate dry waste facilities. These applications were submitted with very little consideration to facility design and the impacts that can be associated with dry waste dumping and handling. If approved by Metro, these types of facilities could significantly increase the risks of public nuisances and adverse health or environmental impacts on people in surrounding businesses and neighborhoods. Metro's existing standards do not explicitly address the design requirements needed for a facility to avoid having such adverse impacts (e.g., impervious pad, roof, cover or building, and stormwater collection and treatment).

Issues of persistent concern for both MRFs and reloads now addressed in the proposed standards include:

- Dust and blowing debris generated from on-site traffic and the tipping and processing of dry waste.
- Insufficient on-site capacity for reloading or processing.
- Contamination or degradation of unprocessed waste by other solid waste or wind and precipitation.
- Inadequate load checking for prohibited or hazardous wastes.

In response to these issues, Metro is publishing facility standards and new application requirements for dry waste facilities. These standards will ensure that new dry waste facilities are designed and operated to a standard consistent with the best facilities in the region. Applicants will know well in advance what will be expected of a Metro licensed facility. Existing dry waste facilities not meeting these standards will be expected to achieve compliance within a reasonable time frame. Once these standards are implemented, the region will benefit from better-designed and operated facilities.

ANALYSIS/INFORMATION

1. **Known Opposition.** No known opposition.
2. **Legal Antecedents.** Ordinance No. 06-1098B, Metro Code Chapters 5.01 and 5.05, the Regional Solid Waste Management Plan and the Metro Charter.
3. **Anticipated Effects.** Facilities accepting non-putrescible waste for the purpose of reloading or conducting material recovery will operate in accordance with the up-to-date performance standards, design requirements and operating requirements issued by the Metro Chief Operating Officer pursuant to Metro Code section 5.01.132.
4. **Budget Impacts.** No Metro budget impacts are anticipated.

RECOMMENDED ACTION

The Chief Operating Officer recommends the adoption of Ordinance No. 07-1138.

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ATTACHMENT 1

Standards for Non-Putrescible Mixed Waste Material Recovery Facilities and Reload Facilities

The following table identifies a specific facility issue with an associated performance goal, design requirement (to be addressed in the license application process) and performance standard / operating requirement (an enforceable, regulatory condition that will be embedded in the facility license or franchise). There are three sections:

- **Section 1** identifies operational issues and standards that are applicable to non-putrescible mixed waste material recovery facilities and reloads.
- **Section 2** lists the general administrative and legal obligations of all Metro licensed and franchised facilities.
- **Section 3** is added as a placeholder to describe new application procedures, existing facility phase-in and renewal requirements, and variances.

SECTION 1 – Issues, Standards and Requirements Applicable to Mixed Dry Waste Material Recovery Facilities and Reload Facilities

These standards and requirements are applicable to a material recovery facility or a dry waste reload facility. Many are also applicable to other licensed or franchised solid waste facilities. The design requirements are applicable to new facilities and existing facilities seeking new or expanded authority (to be addressed in the application process). Shaded sections denote new or amended provisions.

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<p>A. Material recovery</p> <p>Applicable performance goals (3, 4)</p> <p>Metro Code: 5.01.125(a)(b)</p>	<p>Facilities that perform material recovery must be designed and operated to achieve the level of material recovery from mixed non-putrescible waste as specified in Metro Code.</p> <p>Facility design and operations shall ensure that unprocessed mixed non-putrescible wastes and recyclables are protected from contamination from other solid wastes or degradation from wind and precipitation.</p>	<p>Describe how material recovery will be conducted at the facility. For example:</p> <ol style="list-style-type: none"> 1. waste sources (e.g. commercial, residential), expected incoming tonnage, and characteristics, and expected tons recovered, including commodities, and tons of waste to be disposed; 2. the material recovery methods and equipment to be used on site (e.g., sorting lines, hand picking, magnets, etc.) ; and 3. the general markets for the materials recovered at the facility (subject to confidential information provisions in Section 2 X). <p>Submit a proposed facility design providing asphalt or concrete surfaces and a roofed building that is enclosed on at least three sides for the tipping floor, processing (sorting) areas,</p>	<p>The facility shall perform material recovery on mixed non-putrescible wastes. Recovery must be performed at no less than the minimum level stipulated in Metro Code Chapter 5.01 (at least 25% by weight of non-putrescible waste accepted at the facility). <i>This may change based on EDWRP implementation.</i></p> <p>Source-separated recyclable materials, including source-separated yard debris or wood wastes brought to the facility shall not be mixed with any other solid wastes</p> <p>Source-separated recyclable materials may not be disposed of by incineration or landfilling.</p> <p>All mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
		storage and reloading areas.	tip wastes outside, provided the tipped wastes are moved under cover for processing or reloading within 12 hours of receipt or by the end of the business day, whichever is earlier. Mixed non-putrescible solid waste shall at all times be kept physically separated from, and shall not be mixed or allowed to commingle at any time with source-separated recyclable materials, including wood waste, yard debris and other recyclables.
<p>B. Reloading non-putrescible waste</p> <p>Applicable performance goal (3, 5)</p>	<p>Non-putrescible waste reload facilities shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to a Metro authorized processing facility is conducted rapidly and efficiently.</p> <p>Facility design and operations shall ensure that unprocessed non-putrescible wastes and recyclables are protected from contamination from other solid wastes or degradation from wind and precipitation.</p>	<p>Submit a facility design that supports the rapid and efficient reloading of solid waste. Describe the equipment and methods that will be used.</p> <p>Submit a proposed design providing asphalt or concrete surfaces and a roofed structure, that is enclosed on at least three sides for the tipping floor, storage and reloading areas.</p>	<p>All mixed non-putrescible waste must be reloaded and transferred to a Metro authorized facility that conducts material recovery.</p> <p>All unprocessed mixed non-putrescible waste must be removed from the site within 48 hours after it has been received.</p> <p>All mixed non-putrescible waste tipping, storage and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may tip wastes outside, provided the tipped wastes are moved under cover for reloading within 12-hours of receipt or by the end of the business day, whichever is earlier.</p>
<p>C. Dust, airborne debris and litter</p> <p>Applicable performance goals (2, 3)</p>	<p>Minimize and mitigate the generation of dust, airborne debris and litter on-site and prevent its migration beyond property boundaries.</p>	<p>Submit a proposed design providing a roofed structure enclosed on at least three sides for the tipping floor, processing (sorting) areas, and reloading areas. Unusually large vehicles may tip wastes outside, provided the tipped wastes are moved under cover for processing within 12-hours of receipt or the end of the business day whichever is earlier.</p> <p>Describe control measures to prevent fugitive dust, airborne debris and litter. The design shall provide for shrouding and dust prevention for the receiving area, processing area, reload</p>	<p>The facility shall be operated in a manner that minimizes and mitigates the generation of dust, airborne debris and litter, and shall prevent its migration beyond property boundaries. The facility shall:</p> <p>Take reasonable steps, including signage, to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.</p> <p>Maintain and operate all vehicles and devices</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
		<p>area, and all dry processing equipment and all conveyor transfer points where dust is generated.</p> <p>Provide a discussion of any additional facility design measures and procedures for the control of dust, windblown materials, airborne debris, litter and for the handling of the waste in the case of major processing facility breakdown.</p>	<p>transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.</p> <p>Maintain, and operate all roads and access areas, receiving, processing (including grinding), storage, and reload areas in such a manner as to minimize and mitigate dust and debris from being generated on-site and prevent such dust and debris from blowing or settling off-site.</p> <p>Keep all areas within the site and all vehicle access roads within ¼ mile of the site free of litter and debris generated directly or indirectly as a result of the facility's operation.</p> <p>All mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may tip wastes outside, provided the tipped wastes are moved under cover for processing within 12-hours of receipt.</p> <p>Mixed non-putrescible waste and processing residual may not be stored unless it is on an impervious (asphalt or concrete) surface within a covered building or alternatively, inside water tight covered or tarped containers or within covered or tarped transport trailers.</p> <p>On-site facility access roads shall be maintained to prevent or control dust and to prevent or control the tracking of mud off-site.</p>
<p>D. Facility capacity</p> <p>Applicable performance goals (1, 2, 3, 4, 5)</p>	<p>The operational capacity of the facility or site shall not be exceeded.</p>	<p>Provide engineering plans/reports and specifications to document that the size and configuration of the facility grounds, building and equipment, including the facility layout, drainage structures, building design, and major facility equipment, processing systems and storage areas are of sufficient capacity to accommodate seasonal throughput of all</p>	<p>Covered elsewhere.</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
		materials that will be delivered to and generated by the facility.	
<p>E. Storage and exterior stockpiles</p> <p>Applicable performance goals (2, 3, 4)</p>	<p>Stored materials and solid wastes shall be suitably managed, contained and removed at sufficient frequency to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards.</p>	<p>The facility site plan shall identify stockpile footprints, the type of materials and the maximum height of each material stockpile.</p> <p>The facility design must include processing systems and storage areas of sufficient capacity to accommodate seasonal throughput of all materials that are delivered to and generated by the facility.</p>	<p>Exterior stockpiles shall be positioned within footprints identified on the facility site plan.</p> <p>Stored materials and solid wastes shall be suitably managed, contained and removed at sufficient frequency to avoid creating nuisance conditions, vector or bird attraction or harborage, or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.</p> <p>Materials may not be stockpiled for longer than 180 days (6 months). Exceptions may be granted provided the facility has received written authority to store materials for longer periods of time based on a demonstrated need and the materials will be used productively and provided that such stockpiles will not create nuisances, health, safety or environmental problems.</p> <p>Mixed non-putrescible waste or processing residual may not be stored on-site unless it is on an impervious surface (i.e., asphalt or concrete) within a covered building or alternatively, inside water tight covered or tarped containers or within covered or tarped transport trailers.</p> <p>All non-putrescible waste processing residual shall at all times be kept physically separated from, and shall not be mixed or allowed to commingle at any time with, other source-separated recyclable or recovered materials, including wood waste, yard debris and other recyclables.</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
F. Fire prevention Applicable performance goals (1, 2, 3)	Provide adequate fire prevention, protection, and control measures.	Submit proof of compliance with local and state fire codes. Stockpiles shall be located, sized and configured as required by local fire authorities. Identify water sources for fire suppression and layout that allows for isolation of potential heat sources.	The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)	
G. Qualified operator Applicable performance goals (1, 2, 3, 4)	Provide a qualified operator on-site during all hours of operation to carry out the functions required by the license and operating plan.	The facility shall, during all hours of operation, provide a qualified and competent operating staff. Facility personnel, as relevant to their job duties and responsibilities, shall be familiar with the relevant provisions of the license and the relevant procedures contained within the facility's operating plan. A qualified operator must be an employee of the facility with training and authority to reject prohibited loads and properly manage prohibited waste that is inadvertently received.	

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
H. Prohibited waste Applicable performance goals (1, 2, 3, 4)	Prevent the acceptance of prohibited waste, including but not limited to putrescible waste, hazardous waste and asbestos. Prohibited waste shall be properly managed and disposed when inadvertently received.	Designate a load checking area on the facility site plan and a location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated. Containment areas shall be covered and enclosed and constructed to prevent leaking and contamination.	The facility shall provide qualified operators on-site during all hours of operation. The facility shall not accept prohibited waste, including but not limited to putrescible waste, hazardous waste and asbestos. Prohibited loads must be rejected upon discovery. Prohibited waste shall be properly managed and disposed

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
			<p>when inadvertently received.</p> <p>The facility shall implement a load checking program to prevent the acceptance of waste which is prohibited by the license. This program must include at a minimum:</p> <p>Visual inspection. Ensure when each load is tipped it is visually inspected by a qualified operator to prevent the acceptance of waste which is prohibited by the license; and</p> <p>A location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated. Containment areas shall be covered and enclosed to prevent leaking and contamination.</p> <p>Records of the training of personnel in the recognition, proper handling, and disposition of prohibited waste shall be maintained in the operating record and be available for review by Metro.</p>
<p>I. Measurement of waste</p> <p>Applicable performance goals (6)</p>	<p>All non-putrescible waste and source-separated recyclable materials shall be accurately weighed when they are received, transferred to market or intra-facility, and transported from the facility.</p>	<p>The location of scales shall be designated on the facility site plan.</p>	<p>The facility operator shall weigh all non-putrescible waste and source-separated recyclable material when it is received, transferred to market or intra-facility, and transported from the facility.</p> <p>The scale used to weigh all solid waste shall be licensed by the state of Oregon (Weights and Measures Act)</p>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)	
<p>J. Transaction records and reporting</p> <p>Applicable</p>	<p>Maintain complete and accurate transaction records on the weights and types of all solid wastes and recyclable materials received, recovered, reloaded, removed or disposed from the facility.</p>	<p>Record transmittals. Records required shall be transmitted to Metro no later than fifteen days following the end of each month in electronic format prescribed by Metro.</p> <p>Hauler account number listing. Within 5 business days of Metro's request, licensee shall provide Metro with a computer listing that cross references the incoming hauler account number with the hauling company's name and address.</p>	

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)	
<p>performance goals (6)</p> <p>Metro Code: 5.01.137(a)</p>		<p>Transactions to be based on scale weights. Except for minimum fee transactions for small, light-weight loads, the licensee shall record each transaction electronically based on actual and accurate scale weights using the licensee’s on-site scales.</p> <p>For all solid waste the licensee is authorized to receive, including all non-putrescible waste, source-separated recyclables, inert materials, and yard debris, the licensee shall keep and maintain accurate records of the amount of such materials the licensee receives, recovers, recycles, reloads, and disposes. The licensee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ol style="list-style-type: none"> a. Ticket Number (should be the same as the ticket number on the weight slips); b. Account Number or Business Name: Incoming hauler account number on all incoming transactions and outgoing destination account number on all outgoing transactions. For incoming cash commercial customers, incoming hauler business name for all incoming commercial cash transactions; c. Materialcategory: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated recyclable materials by type; (2) incoming mixed dry waste; (3) outgoing recyclable materials by type; (4) outgoing mixed dry waste; d. Origin: Code designating the following origin of material: (1) from inside Metro boundaries; (2) from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (3) from out-of-state; <ol style="list-style-type: none"> i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region. ii. If the Licensee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Licensee is not required to designate the origin of loads in (d)(2) and (3) above. e. Date the load was received at, transferred within, or transmitted from the facility; f. Time the load was received at, transferred within, or transmitted from the facility; g. Indicate whether Licensee or Franchisee accepted or rejected the load; h. Net weight of the load; i. The fee charged to the generator of the load. 	

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
<p>K. Access control</p>	<p>Control access and prevent unauthorized pedestrian and vehicular traffic and illegal</p>	<p>Control pedestrian and vehicular access to the proposed facility by means of fencing, gates</p>	<p>Access to the facility shall be controlled as necessary to prevent unauthorized entry and</p>

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
Applicable performance goals (1, 2, 3)	dumping.	which may be locked, natural barriers or security guards.	dumping. A gate or other suitable barrier shall be maintained at potential vehicular access points to prevent unauthorized access to the site when an attendant is not on duty.
L. Adequate vehicle accommodation Applicable performance goals (2, 3)	Provide and maintain access roads to allow the orderly egress and ingress of vehicular traffic.	Access roads shall be provided from the public highways or roads, to and within the facility site and shall be designed and maintained to prevent traffic congestion and traffic hazards. Adequate on-site area at the facility's entrance, scales, loading and unloading points and exit points shall be provided to allow the number and types of vehicles expected to use the facility during peak times to safely queue off the public roads and right-of-way.	Provide access roads of sufficient capacity to adequately accommodate all on-site vehicular traffic. Access roads shall be maintained to allow the orderly egress and ingress of vehicular traffic when the facility is in operation, including during inclement weather. Vehicles delivering solid waste to the facility shall not park or queue on public streets or roads in a manner that impedes normal traffic flow, except under emergency conditions. Signs shall be posted to inform customers not to queue on public roadways. Adequate off-street parking and queuing for vehicles shall be provided, including adequate space for on-site tarping and untarping of loads.
M. Water contaminated by solid waste and solid waste leachate Applicable performance goals: (1, 2)	Provide pollution control measures to protect surface and ground waters from contamination from solid waste.	Submit a DEQ (or equivalent) approved plan with pollution control measures to protect surface and ground waters, including runoff collection and discharge and equipment cleaning and washdown water.	The Licensee shall operate the facility consistent with an approved DEQ (or equivalent) plan, and shall: Operate and maintain the facility to prevent contact of solid wastes with storm water runoff and precipitation; and Dispose of or treat water contaminated by solid waste generated onsite in a manner complying with local, state, and federal laws and regulations. All mixed non-putrescible waste tipping, storing, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Unusually large vehicles may tip wastes outside, provided the tipped wastes

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
			are moved under cover for processing within 12-hours of receipt or by the end of the business day whichever is earlier.
<p>N. Vectors (e.g.: birds, rodents, insects) Applicable performance goals (2, 3)</p>	Prevent the attraction or harborage of rodents, birds, insects and other vectors.	Describe facility design features that will prevent vectors.	The Licensee shall operate the facility in a manner that is not conducive to the harborage of rodents, birds, insects or other vectors capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another. If vectors are present or detected at the facility, vector control measures shall be implemented.
<p>O. Nuisance complaints Applicable performance goals (3)</p>	Respond to all nuisance complaints in a timely manner, and keep a record of such complaints, and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.	Not applicable	<p>The facility operator shall respond to all nuisance complaints in timely manner (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors), and shall keep a record of such complaints and any action taken to respond to the complaints, including actions to remedy the conditions that caused the complaint.</p> <p>If the facility receives a complaint, the operator shall:</p> <p>Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and log all such complaints as provided by the recordkeeping and reporting standards. Each log entry shall be retained for one year and shall be available for inspection by Metro.</p>
<p>P. Noise Applicable performance goals (2, 3)</p>	Prevent excessive noise that creates adverse off-site impacts.	Identify noise abatement design features on the facility site plan, if proposed.	The facility shall be operated in a manner that prevents the creation of excessive noise that creates adverse off-site impacts.
<p>Q. Odor Applicable performance goals</p>	Prevent odors that create off-site impacts.	Identify odor abatement design features on the facility site plan, if proposed.	The facility shall be operated in a manner that prevents the generation of odors that create off-site impacts. Odors from the facility shall not be

Issue	Issue Specific Performance Goal	Design Requirement (to be addressed in application)	Performance Standard / Operating Requirement (license / franchise condition)
(2, 3)			<p>detectable off-site.</p> <p>The Licensee shall establish and follow procedures in the operating plan for minimizing odor at the facility.</p>
<p>R. Signage</p> <p>Applicable performance goals (1, 2, 3)</p>	<p>Have signage that identifies the facility, shows the required information, and is posted in locations as required.</p>	<p>Identify where the sign(s) will be located on the facility site plan.</p>	<p>The Licensee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, and legible from off-site during all hours and shall contain at least the following information:</p> <ol style="list-style-type: none"> 1. General facility information <ul style="list-style-type: none"> Name of the facility Address of the facility; Emergency telephone number for the facility; Operating hours during which the facility is open for the receipt of authorized waste; Fees and charges; Metro's name and telephone number (503) 234-3000; and A list of authorized and prohibited wastes. 2. Vehicle / traffic flow information or diagram. 3. Covered load requirements.

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
<p>S. Operating plan</p> <p>Applicable performance goals (1, 2, 3, 4, 5)</p>	<p>Develop, keep and abide by a Metro approved operating plan.</p>	<p>Plan compliance The Licensee must operate the facility in accordance with an operating plan approved by the Manager of the Metro Solid Waste Regulatory Affairs Division. The operating plan must include sufficient detail to demonstrate that the facility will be operated in compliance with this license. The operating plan may be amended from time to time, subject to approval by the Manager of the Metro Solid Waste Regulatory Affairs Division.</p> <p>Plan maintenance The Licensee must revise the operating plan as necessary to keep it current with facility conditions, procedures, and requirements. The Licensee must submit revisions of the operating plan to the Manager of the Metro Solid Waste Regulatory Affairs Division for written approval prior to implementation.</p> <p>Access to operating plan The Licensee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.</p> <p>The operating plan shall establish:</p>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
		<p>Procedures for inspecting loads</p> <ol style="list-style-type: none"> a. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes; b. A set of objective criteria for accepting and rejecting loads; and c. An asbestos testing protocol for all material that appears as if it may contain asbestos. <p>Procedures for processing and storage of loads</p> <ol style="list-style-type: none"> a. Processing authorized solid wastes, b. Reloading and transfer of authorized solid wastes, c. Managing stockpiles. d. Storing authorized solid wastes; and e. Minimizing storage times and avoiding delay in processing of authorized solid wastes. <p>Procedures for managing prohibited wastes</p> <p>The operating plan shall establish procedures for managing, reloading, and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.</p> <p>Procedures for odor prevention</p> <p>The operating plan shall establish procedures for preventing all objectionable odors from being detected off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility. <p>Procedures for dust prevention</p> <p>The operating plan shall establish procedures for preventing the production of dust from blowing or falling off the premises of the facility. The plan must include:</p> <ol style="list-style-type: none"> a. A management plan that will be used to monitor and manage dust of any derivation; and b. Procedures for receiving and recording dust complaints, immediately investigating any dust complaints to determine the cause of dust emissions, and remedying promptly any dust problem at the facility. <p>Procedures for emergencies</p> <p>The operating plan shall establish procedures to be followed in case of fire or other emergency.</p> <p>Procedures for nuisance complaints</p> <p>For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Licensee shall record:</p> <ol style="list-style-type: none"> a. The nature of the complaint; b. The date the complaint was received; c. The name, address and telephone number of the person or persons making the complaint; and d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful). e. Records of such information shall be made available to Metro upon request. The Licensee shall retain

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
<p>T. Pre-Operating conditions <i>(for new construction or new authorizations)</i></p> <p>Applicable performance goals (1, 2, 3, 4, 5)</p>	<p>The facility shall not be permitted to accept solid waste until it has demonstrated that construction is complete and the facility will likely be able to comply with all license conditions.</p>	<p>each complaint record for a period of not less than two years.</p> <p>The facility may not accept any solid waste until the Director of the Solid Waste and Recycling Department has approved in writing that:</p> <ol style="list-style-type: none"> The facility construction is complete according to plans submitted by the facility and approved by Metro. Any amendments or alterations to such plans must be approved by the Director of the Solid Waste and Recycling Department. The storm water management system must be constructed and in proper working order in accordance with the plans submitted to Metro and approved by the DEQ. Any amendments or alterations to such plans must be approved by the Director of the Solid Waste and Recycling Department. An adequate operating plan has been submitted and approved by the Director of the Solid Waste and Recycling Department. <p>Such written approval shall be based upon the Licensee’s compliance with license provisions, including the Director’s inspection of the facility and the documents submitted to the Director by the Licensee.</p> <p>Prior to the required construction inspection, the Licensee shall submit to the Director of the Solid Waste and Recycling Department “as constructed” facility plans which note any changes from the original plans submitted to Metro.</p> <p>When construction is complete or nearly complete, the Licensee shall notify the Director of the Solid Waste and Recycling Department so that an inspection can be made before acceptance of any solid waste.</p>
<p>U. General Recordkeeping and Reporting</p> <p>Applicable performance goal (6)</p> <p>Metro Code 5.01.137(a)</p>	<p>Maintain complete and accurate records and report such information to Metro.</p>	<p>DEQ submittals. Licensee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this license within two business days of providing such information.</p> <p>Copies of enforcement actions provided to Metro. Licensee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to licensee by any federal, state, or local government other than Metro, and related to the operation of the facility.</p> <p>Unusual occurrences. Licensee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. If a breakdown of the operator’s equipment occurs that will substantially impact the ability of the facility to remain in compliance, or create off-site impacts, the operator shall notify Metro within 24-hours. The licensee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 234-3000 within 12 hours of the discovery of their occurrence.</p> <p>Nuisance complaints. For every nuisance complaint (e.g. odor, noise, dust, vibrations, litter) received, the licensee shall record: a) the nature of the complaint, b) the date the complaint was received, c) the name, address and telephone number of the person or persons making the complaint; and d) any actions taken by the operator in response to the complaint (whether</p>

Issue	Issue Specific Performance Goal	Performance Standard / Operating Requirement (license / franchise condition)
		<p>successful or unsuccessful). Records of such information shall be maintained on-site and made available to Metro upon request. The licensee shall retain each complaint record for a period not less than one year.</p> <p>Changes in ownership. The licensee must, in accordance with Metro Code Section 5.01.090, submit a new license application to Metro if the licensee proposes to transfer ownership or control of (1) the license, (2) the facility property, or (3) the name and address of the operator.</p>

SECTION 2 – General Administrative and Legal Obligations for Operating

This section identifies standard administrative and legal obligations, required by the Metro Code, for all solid waste facility licenses and franchises. These requirements are not unique to a material recovery facility or to a non-putrescible waste reload facility. Shaded sections denote new or amended provisions.

Issue	Performance Standard / Operating Requirement (license / franchise provision)
<p>V. Compliance by agents. Metro Code: 5.01.410(c)(e)(g)(h)</p>	<p>Compliance by agents. The Licensee shall be responsible for ensuring that its agents and contractors operate in compliance with this license.</p>
<p>W. Compliance with law Metro Code: 5.01.410(c)(e)(g)(h)</p>	<p>Compliance with law. The Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this license as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the license document, as well as any existing at the time of the issuance of the license but not cited or attached, and permits or conditions issued or modified during the term of the license.</p>
<p>X. Confidential information. Metro Code: 5.01.137(f)</p>	<p>Confidential information. The Licensee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Licensee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. Licensee shall prominently mark any information that it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt of a request for disclosure of information identified by Licensee as confidential, Metro shall provide Licensee written notice of the request. Licensee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Licensee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 13.0 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information</p>
<p>Y. Deliver waste to appropriate destinations Metro Code: 5.01.120(b)</p>	<p>Deliver waste to appropriate destinations. The Licensee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;</p>

(Section 2 continued)

Issue	Performance Standard / Operating Requirement (license / franchise provision)
<p>Z. Enforcement</p> <p>Metro Code: 5.01.410(c)</p>	<p>Generally. Enforcement of the license shall be as specified in Metro Code.</p> <p>Authority vested in Metro. The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro’s authority, and to enforce all such requirements against Licensee.</p> <p>No Enforcement Limitations. Nothing in this license shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this license be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this license or the Licensee’s operation of the facility.</p>
<p>AA. Indemnification.</p> <p>Metro Code: 5.01.120(d)</p>	<p>Indemnification. The Licensee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney’s fees, or liability related to or arising out of or in any way connected with the Licensee’s performance or failure to perform under this license, including patent infringement and any claims or disputes involving subcontractors.</p>
<p>BB. Modifications</p> <p>Metro Code: 5.01.180 5.01.410(d)</p>	<p>Modification. At any time during the term of the license, either the Chief Operating Officer or the Licensee may propose amendments or modifications to this license. The Chief Operating Officer has the authority to approve or deny any such amendments or modifications provided that the activities authorized in the amended or modified license do not require a Metro Solid Waste Facility Franchise under Metro Code Chapter 5.01. No amendment or modification pursuant to this section shall be effective unless in writing and executed by the Chief Operating Officer.</p> <p>Modification, suspension or revocation by Metro. The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this license in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:</p> <ul style="list-style-type: none"> a. Violation of the terms or conditions of this license, Metro Code, or any applicable statute, rule, or standard; b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this license; c. Failure to disclose fully all relevant facts; d. A significant release into the environment from the facility; e. Significant change in the character of solid waste received or in the operation of the facility; f. Any change in ownership or control, excluding transfers among subsidiaries of the Licensee or Licensee’s parent corporation; g. A request from the local government stemming from impacts resulting from facility operations. h. Compliance history of the Licensee.

(Section 2 continued)

Issue	Performance Standard / Operating Requirement (license / franchise provision)
<p data-bbox="92 240 390 298">CC. Right of inspection and audit.</p> <p data-bbox="142 350 359 448">Metro Code: 5.01.120(a) 5.01.135 (a)(b)(c)</p>	<p data-bbox="434 240 1990 451">Right of inspection and audit. Authorized representatives of Metro may take photographs, collect samples of materials, and perform such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 13.5 of this license, Metro’s right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Licensee that are directly related to the operation of the Facility.</p>
<p data-bbox="92 516 281 542">DD. Insurance</p> <p data-bbox="142 594 338 691">Metro Code: 5.01.060(c)(1) 5.01.120(c)</p>	<p data-bbox="434 521 1961 579">General liability. The Licensee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.</p> <p data-bbox="434 597 1556 623">Automobile. The Licensee shall carry automobile bodily injury and property damage liability insurance.</p> <p data-bbox="434 644 1902 703">Coverage Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.</p> <p data-bbox="434 721 1864 747">Additional insureds. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS.</p> <p data-bbox="434 768 1927 917">Worker’s Compensation Insurance. The Licensee, its subcontractors, if any, and all employers working under this license, are subject employers under the Oregon Workers’ Compensation Law shall comply with ORS 656.017, which requires them to provide Workers’ Compensation coverage for all their subject workers. Licensee shall provide Metro with certification of Workers’ Compensation insurance including employer’s liability. If Licensee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers’ Compensation.</p> <p data-bbox="434 935 1927 993">Notification. The Licensee shall give at least 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage.</p>
<p data-bbox="92 1062 401 1088">EE. Financial assurance</p> <p data-bbox="142 1107 338 1172">Metro Code: 5.01.060(c)(4)</p>	<p data-bbox="434 1066 1965 1125">Financial assurance The Licensee shall maintain financial assurance in an amount adequate for the cost of the facility’s closure and in a form approved by Metro for the term of the license, as provided in Metro Code section 5.01.060(c)(4).</p>

Section 3 –New application requirements, existing facility phase-in and renewal requirements, and variances

Issue	In addition to Metro’s current procedures and requirements for new applications and renewals, the following will also apply:
<p>FF. New application requirements (including applications from existing facilities seeking expanded authority)</p>	<p>New facilities and existing facilities seeking new or expanded authority to conduct reloading or material recovery will have to demonstrate compliance with all of the design requirements in the application process. Application submittals such as facility design, building plans, site plans and specifications that address the standards, must be prepared, as appropriate, by persons licensed in engineering, architecture, landscape design, traffic engineering, air quality control, and design of structures.</p>
<p>GG. Existing facility phase-in and renewal requirements</p>	<p>Upon adoption of the standards, existing facilities will have two years to demonstrate compliance with the requirement that all mixed non-putrescible waste tipping, storage, sorting and reloading activities must occur on an asphalt or concrete surface and inside a roofed building that is enclosed on at least three sides. Other than that requirement, no additional design requirements will be required for existing facilities. New or revised operating requirements will become part of a facility replacement license or franchise upon renewal for all facilities.</p>
<p>HH. Variances</p>	<p>This section is a placeholder and will provide that the Chief Operating Officer may grant specific variances from particular requirements of the standards adopted as administrative procedures to applicants for licenses or franchises.</p>

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 07- 1139
CODE CHAPTERS 5.01 AND 5.05 AND THE)	
REGIONAL SOLID WASTE MANAGEMENT)	Introduced by Michael Jordan, Chief
PLAN TO LIFT A TEMPORARY)	Operating Officer with the concurrence of
MORATORIUM ON CERTAIN NEW NON-)	David Bragdon, Council President
PUTRESCIBLE MIXED WASTE MATERIAL)	
RECOVERY OR RELOAD FACILITIES AND)	
CERTAIN NON-SYSTEM LICENSES)	

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and

WHEREAS, on February 2, 2006 the Metro Council approved Ordinance No. 06-1098B that amended the Metro Code Chapters 5.01 and 5.05 and the Regional Solid Waste Management Plan to impose a temporary moratorium until December 31, 2007 on new non-putrescible mixed waste material recovery or reload facilities that accept solid waste originating, generated, or collected within the Metro region; and

WHEREAS, the temporary moratorium provides that the Metro Council may lift the temporary moratorium at an earlier date if sufficient progress is made in setting system policy direction on disposal and material recovery, and toward development of more detailed material recovery facility standards; and

WHEREAS, through Disposal System Planning, the Interim Waste Reduction Plan, and more detailed material recovery facility standards, sufficient progress has been made in setting system policy direction on disposal and material recovery, the temporary moratorium on new non-putrescible mixed waste recovery or reload facilities and the temporary moratorium on changes of authorizations, the temporary moratorium on certain non-system licenses should be lifted in 90 days; and now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.060 shall be amended as follows:

5.01.060 Applications for Licenses or Franchises

(a) Applications for a Franchise or License or for renewal of an existing Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;

- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any Closure plan required to be submitted to DEQ, or if DEQ does not require a Closure plan, a Closure document describing Closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of Closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of Closure of the facility. The proposal shall include an estimate of the cost to implement the Closure plan required in Section 5.01.060(c)(3). If an application is approved, the license or franchise shall require that financial assurance is in place prior to beginning any activities authorized by the license or franchise. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the Closure plan required in Section 5.01.060(e)(3) will be less than \$10,000.
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application and any permit that has been granted shall be provided.

(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter.

(e) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to operate a Transfer Station during the period commencing August 19, 2004, and continuing until December 31, 2007.

~~(f) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to accept non-putrescible solid waste originating, generated or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing January 12, 2006, and continuing until December 31, 2007. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.~~

SECTION 2. Metro Code Section 5.01.067 shall be amended as follows:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within ten (10) days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a

License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer.

(j) The term of a new or renewed License shall be not more than five years.

~~(k) Notwithstanding any other provision in this Section, no authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading shall be granted during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006. Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.~~

SECTION 3. Metro Code Section 5.05.035 shall be amended as follows:

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;

- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
 - (A) The total tonnage if the application is for a limited duration non-system license; or
 - (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

(b) Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

- (1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.
- (2) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars (\$100).
- (3) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the

application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).

- (4) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in Section 5.01.150, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.

(c) Factors to Consider To Determine Whether to Issue Non-System License. The Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to determine whether or not to issue a non-system license:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the non-system facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and
- (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

(d) Timetables To Determine Whether to Issue a Non-System License.

- (1) Non-system licenses for Non-putrescible waste, Special waste, Cleanup Material Contaminated By Hazardous Substances, or any other solid waste other than Putrescible waste.
 - (A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination within 60 days after receipt of a new completed application, including receipt of any additional information required by the Chief Operating Officer in connection therewith.

(B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 60 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Chief Operating Officer shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Chief Operating Officer is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 60 days before the existing license expires.

(2) Non-system licenses for Putrescible waste. The Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue or renew a non-system license for Putrescible waste. If the Chief Operating Officer recommends that the non-system license be issued or renewed, the Chief Operating Officer shall recommend to the council specific conditions of the non-system license.

(A) New licenses. The Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination within 120 days after receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith.

(B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 120 days prior to the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Council shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination prior to the expiration of the existing non-system license. The Council is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.

(3) At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a new or renewed non-system license as deemed necessary or appropriate under the circumstances.

(e) Issuance of Non-System License; Contents. Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;
- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than:
 - (A) 120 days from the date of issuance for a limited-duration non-system license;
 - (B) Three years from the date of issuance for a new full-term license; and
 - (C) Two years from the date of issuance of a renewed full-term non-system license.
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(f) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month; and
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.
- (4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary,

the load in its entirety shall be reported to Metro by the non-system licensee as having been generated within the Metro boundary and the Regional System Fee and Excise Tax shall be paid on the entire load unless the licensee provides Metro with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or unless Metro has agreed in writing to another method of reporting.

(g) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and
- (2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance

(h) Notwithstanding any other provision in this Section, and unless contrary to any other applicable law, the Chief Operating Officer shall not accept any application for, and neither the Chief Operating Officer nor the Metro Council shall issue a non-system license for mixed putrescible solid waste ~~or mixed non-putrescible solid waste that has not first been delivered to a Metro licensed or franchised Processing facility for material recovery~~ during the period commencing February 2, 2006, and continuing until December 31, 2007; provided, however, that a licensee may request, and the Chief Operating Officer or Metro Council may issue, a replacement license with an effective date beginning the day after an existing license expires if the replacement license is to authorize the licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing license. ~~Metro Council may lift the temporary moratorium at an earlier date if sufficient progress has been made in setting system policy direction on disposal and material recovery and toward development of more detailed material recovery facility standards.~~

SECTION 4. The provisions of “Business Waste Reduction Practices: 4. Regional processing facilities for mixed dry waste,” located on pages 7-17 to 7-18 of the Regional Solid Waste Management Plan, are amended to delete the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with January 12, 2006, and continuing until December 31, 2007, provided, however that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006.

SECTION 5. The provisions of “Building Industries (Construction and Demolition) Waste reduction Practices” located on pages 7-19 to 7-22 of the Regional Solid Waste Management Plan, are amended to delete the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with January 12, 2006, and continuing until December 31, 2007, provided, however that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006.

SECTION 6. The provisions of “Solid Waste Facilities and Services: Transfer and Disposal System” located on pages 7-25 to 7-27 of the Regional Solid Waste Management Plan, are amended to delete the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with January 12, 2006, and continuing until December 31, 2007, provided, however that the Chief Operating Officer shall process and determine whether to approve or deny all license applications that were submitted, and that the Chief Operating Officer determined were complete, prior to January 12, 2006.

ADOPTED by the Metro Council this _____ day of _____, 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

BM:bjl
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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1139, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTERS 5.01 AND 5.05 AND THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO LIFT A TEMPORARY MORATORIUM ON CERTAIN NEW NON-PUTRESCIBLE MIXED WASTE MATERIAL RECOVERY AND RELOAD FACILITIES AND CERTAIN NON-SYSTEM LICENSES

Date: January 18, 2007

Prepared by: Bill Metzler

BACKGROUND

On February 2, 2006 the Metro Council adopted Ordinance No. 06-1098B that amended the Metro Code Chapters 5.01 and 5.05 and the Regional Solid Waste Management Plan to impose a temporary moratorium until December 31, 2007, on certain new non-putrescible, mixed solid waste material recovery or reload facilities, and certain non-system licenses.

The temporary moratorium provides that the Metro Council may lift the temporary moratorium at an earlier date if sufficient progress is made in setting system policy direction on disposal and material recovery, and toward development of more detailed material recovery facility standards.

It is recommended that the temporary moratorium be lifted earlier than December 31, 2007, because sufficient progress has been made in setting system policy direction on disposal and material recovery through: 1) the Disposal System Planning project – which has been completed, and 2) the Interim Waste Reduction Plan, approved by Council in August 2006, and 3) the Enhanced Dry Waste Recovery Program (EDWRP) which will be presented to Council in the spring. In addition, detailed material recovery facility standards have been developed and will be issued by the Chief Operating Officer within 90 days of adoption of Ordinance No. 07-1138.

ANALYSIS/INFORMATION

1. **Known Opposition.** No opposition to lifting the moratorium early has been identified.
2. **Legal Antecedents** Ordinance No. 06-1098B, Metro Code Chapter 5.01 and 5.05, The Regional Solid Waste Management Plan, and the Metro Charter.
3. **Anticipated Effects.** Adoption of this ordinance will lift the temporary moratorium imposed by Council on new non-putrescible mixed waste recovery or reload facilities that accept solid waste originating, generated, or collected within the Metro region, including the temporary moratorium on any changes of authorizations to allow existing facilities to begin new non-putrescible waste material recovery or reload operations involving solid waste originating, generated, or collected within the Metro region the temporary moratorium on certain non-system licenses. As soon as the ordinance is effective (90 days after adoption by Council), Metro can expect to begin receiving and evaluating new license applications for non-putrescible mixed material recovery facilities.
4. **Budget Impacts.** There are no Metro budget impacts.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 07-1139.

BM:bjl
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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER RELATING TO THE RICHARD L. AND SHARON K. KURTZ CLAIM FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)) Resolution No. 07-3774) Introduced by Chief Operating Officer Michael Jordan with the concurrence of Council President David Bragdon

WHEREAS, Richard L. and Sharon K. Kurtz filed a claim for compensation under ORS 197.352 (Measure 37) contending that Metro regulations had reduced the fair market value of property they own in the city of Damascus; and

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

WHEREAS, the Metro Council held a public hearing on the claim on February 15, 2007, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

1. Enters Order 07-018, 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. 07-018, 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 15th day of February, 2007

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Order No. 07-018

RELATING TO THE RICHARD L. & SHARON K. KURTZ CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimants: Richard L. and Sharon K. Kurtz

Property: 12020 SE 222nd, Damascus, Oregon;
Township 1S, Range 3E, Section 34C, Tax Lot 700 (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 claimants' land.

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

The Metro Council considered the claim at a public hearing on February 15, 2007.

IT IS ORDERED THAT:

The claim of Richard L. and Sharon K. Kurtz for compensation be denied because it does not qualify for compensation for reasons set forth in the reports of the COO.

ENTERED this 15th day of February, 2007.

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

**In Consideration of Council Order No. 07-018
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of Richard L. and Sharon K. Kurtz**

January 18, 2007

METRO CLAIM NUMBER: Claim No. 07-018

NAME OF CLAIMANT: Richard L. and Sharon K. Kurtz

MAILING ADDRESS: c/o Tom Leibner/Primogenitor Corporation
17940 Oatfield Rd.
Gladstone, OR 97027

PROPERTY LOCATION: 12020 SE 222nd Dr.
Damascus, OR 97089

LEGAL DESCRIPTION: Township 1S, Range 3E, Section 34C
Tax Lot 700

DATE OF CLAIM: December 4, 2006

I. CLAIM

Claimants Richard L. and Sharon K. Kurtz seek compensation in the amount of \$227,295 for a claimed reduction in fair market value (FMV) of property owned by the claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11 (Interim Protection of Areas Brought into the Urban Growth Boundary) and Metro Ordinance 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). In lieu of compensation, claimant seeks a waiver of those regulations so claimant can apply to the City of Damascus to divide the 6.37-acre subject property into single-family residential lots of one to five acres.

Claimants have also filed a pending Measure 37 Claim with Clackamas County, challenging the property's RRFF-5 zoning designation. It is unknown if claimants have filed Measure 37 claims with any other jurisdictions.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on January 25, 2007. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at www.metro-region.org.

II. SUMMARY OF COO RECOMMENDATION

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that Metro's action to bring claimants' land into the Urban Growth Boundary (UGB), designate a portion of it Inner Neighborhood (allowing high-density residential

development) and a portion of it Corridor (allowing a wide range of residential and non-residential uses), and applying a temporary 20-acre minimum lot size 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 December 4, 2006. The claim identifies Metro Code section 3.07.1110 C, Metro Ordinance 98-772B, and Metro Ordinance 02-969B as the basis of the claim.

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

Conclusions of Law

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

IV. ANALYSIS OF CLAIM

1. Ownership

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

Findings of Fact

The claimants acquired an ownership interest in 6.37 acres of the subject property through a Warranty Deed recorded on June 14, 1968, and have had a continuous ownership interest since that time. Attachment 1 is a site map of the subject property (ATTACHMENT 1). The subject property has one house built upon it.

Conclusions of Law

The claimants, Richard and Sharon Kurtz, are owners of the subject property as defined in the Metro Code.

2. Zoning History

The zoning of the subject property at the time of claimants' acquisition in 1968 is unknown and is not provided by claimants. However, at the time of Metro's annexation of the subject property into the UGB, the subject property was zoned RRFF-5, allowing one dwelling unit per five acres.

3. Applicability of a Metro Functional Plan Requirement

Findings of Fact

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

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

Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimant acquired the property. Thus, the section did not apply to the subject property at the time claimant acquired it. The section does not allow the claimants to partition or subdivide their 6.37-acre property until the City of Damascus adopts its comprehensive plan.

4. Effect of Functional Plan Requirements on Fair Market Value

Findings of Fact

Section 2.21.040(d)(5) of the Metro Code requires the Chief Operating Officer (COO) to determine whether the temporary 20-acre minimum size for the creation of new lots or parcels applicable to territory newly added to the UGB has reduced the value of claimants' land. The COO's conclusion is based upon the analysis of the effect of Metro's action contained in ATTACHMENT 2 (Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel dated January 24, 2007 (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 \$227,295. Using assessor data, claimants assert that the property's current fair market value (FMV), with the temporary 20-acre minimum size in place, is \$257,295 (including the existing house). Based on comparable property data, claimants assert that a one-acre parcel for a homesite has a current FMV of \$120,000. Claimants believe they could have received approval of four additional homesites under the zoning in place at the time they acquired the property. Claimants assert the following diminution in value attributable to Metro regulations:

Current FMV:			
Land:	\$159,855		
Improvements:	\$ 97,440		
	Current Total:		\$257,295
Assertion of potential FMV:			
Land:	\$159,855		
Improvements:	\$ 97,440		
Reduction/Lot Size:	\$(30,000)		
	Subtotal:		\$227,295
Four new lots FMV:	\$480,000		
Less development costs:	\$(80,000)		
	Subtotal:		\$400,000
	Potential FMV:		\$627,295
	Claimed reduction in FMV:		\$227,295

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

A. “Comparable Sales” Method

This method compares the value of the property in its current regulatory setting with its value today as though Metro’s action had not happened, using transactions involving comparable properties in both “before” and “after” scenarios. Under the “before” scenario, the property would be outside the UGB with the zoning that applied at the time of the application of Metro’s regulation: 6.37-acres zoned RRFF-5 (Rural Residential-Farm/Forest, five acre minimum lot size). Given these zoning requirements, claimants would not have been able to obtain approval to divide their 6.37-acre property and would only be eligible for one single-family dwelling.

Under the “after” scenario (current regulatory setting), the land lies within the UGB. Portions of the property are designated Inner Neighborhood and portions are designated Corridor. The property is subject to a temporary 20-acre minimum lot size to preserve the status quo while the City of Damascus completes the comprehensive planning necessary to allow urbanization of the previously rural (outside the UGB) land. The comparable sales method assumes claimants will eventually be able to use the property for high-density residential development (ranging from 47 to 59 residential lots on the buildable portions of the subject property).

Table 4 of the Condor Memo compares today’s value of the property before and after Metro’s action, adjusting in both cases for costs of development and limitations on development of the site that a prudent investor would take into account. The table shows that the FMV of the property under existing regulations greatly exceeds the value of the property under RRFF-5 zoning outside the UGB. The analysis using this methodology indicates that the current regulatory setting has not reduced the FMV of the subject property. In fact, the analysis indicates that Metro’s actions have increased the property’s FMV.

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

The Condor Memo uses time-series data to determine whether the application of Metro regulations to the property reduced its value. The data show values before and after Metro’s inclusion of the property in the UGB and application of Metro’s regulations. The data are displayed in Table 3 of the memo. There is no

indication from the data that Metro's regulations reduced the value of the property. The data show that the property continued to increase in value after March 5, 2003, the date the regulations became applicable to the property. Figure A of the memo depicts the data graphically.

Conclusions of Law

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

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

5. Exemptions under ORS 197.352(3)

Findings of Fact

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

Conclusions of Law

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

6. Relief for Claimant

Findings of Fact

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

Conclusions of Law

Based on the record, the 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 3.07.1110 C.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Kurtz claim for the reason that the Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B did not reduce the value of the subject property.

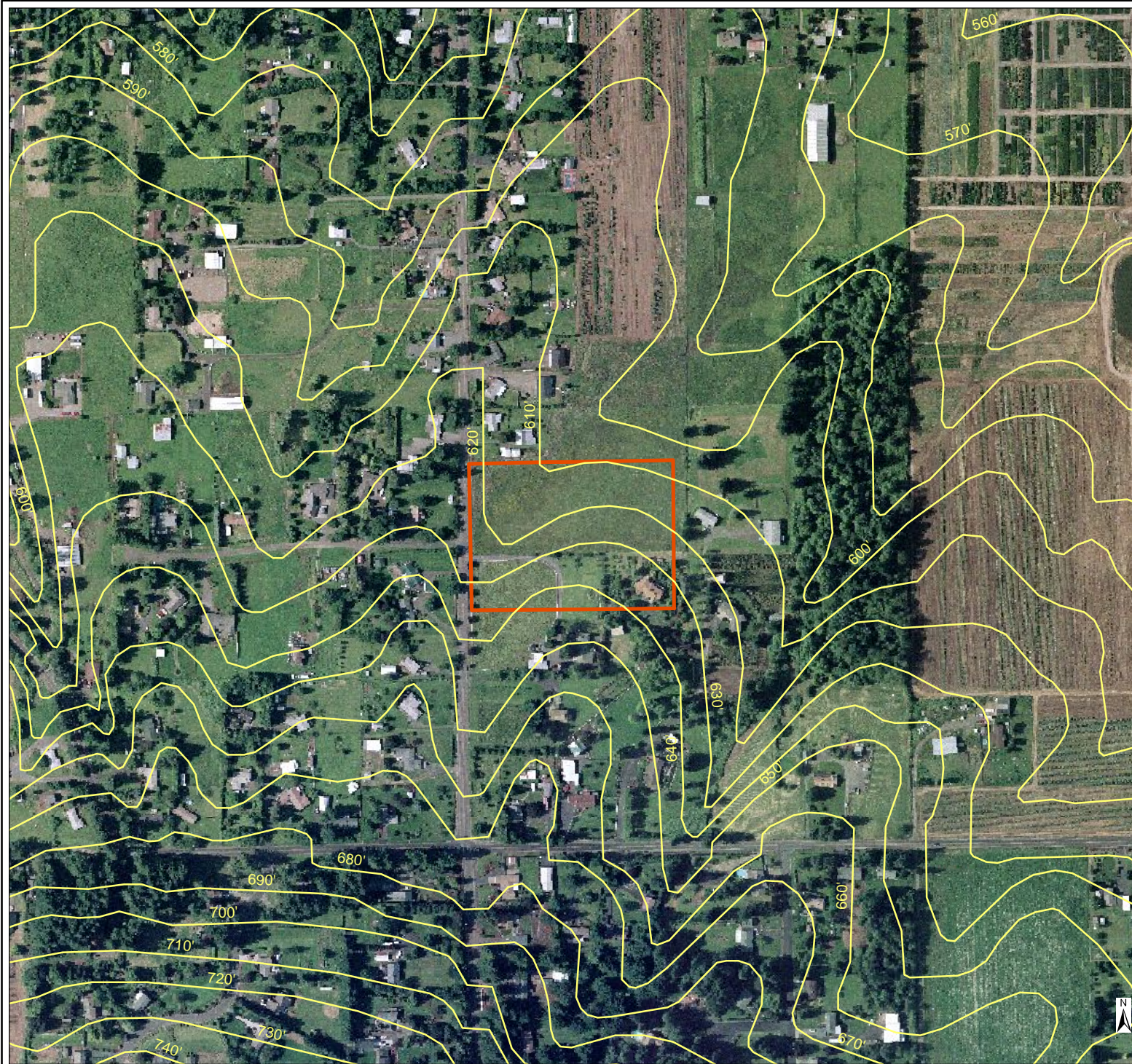
ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Richard and Sharon Kurtz Property

Attachment 2: Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Kurtz Measure 37 Claim," dated January 25, 2007


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

Attachment 4: Richard and Sharon Kurtz Measure 37 Claim Submittal to Metro

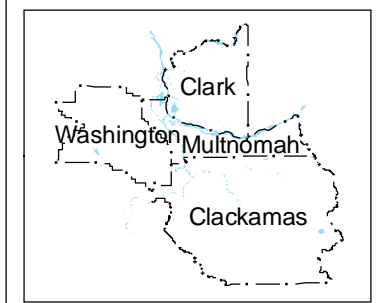
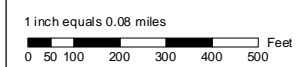


Resolution No. 07-3774
Attachment 1 COO Report

Site Map Kurtz 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.



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

January 25, 2007

To: Ray Valone
Richard Benner

From: Sonny Conder
Karen Hohndel

Subject: Valuation Report on the Kurtz Measure 37 Claim

Conclusion

Per your request, we have conducted a valuation analysis of the Kurtz Measure 37 Claim. The Metro designations of 'Inner Neighborhood' and 'Corridor' apply to the Kurtz Claim. We conclude, using the comparable sales method of determining possible reduction in value, that the Metro action of including the 6.37-acre property inside the urban growth boundary (UGB), designating it 'Inner Neighborhood' and 'Corridor', and imposing a temporary 20-acre minimum lot size for development did not produce a material loss of value for the subject property¹. In all likelihood, the action produced an increase in value for the claimant's property.

Using a time series variation of the Plantinga-Jaeger method of determining property value loss due to regulation also indicates no loss of value for the 6.37-acre parcel. This conclusion rests on the observation that the assessor's market value for that particular property has continued to increase since the Metro 2003 regulation. Moreover, the entire class of comparably sized RRF-5 acre lot size designated parcels within the expansion area has continued to increase since the Metro 2003 regulation.

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

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.

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

Conceptual Understanding for Basis of Property Value Analysis

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

1. Estimate the FMV of the property subject to the regulation that the claimant contends has reduced the value of his property.
2. Estimate the FMV of the property today as though it were subject to the regulations in place prior to the date Metro first applied the regulation to the claimant's property.

Metro Ordinance No. 02-969B applied a set of new regulations to the claimant's property. First, the ordinance brought claimant's property into the region's UGB, making the property eligible for urban residential densities on the parcel rather than rural low-density development. Fifty percent of the 6.37 acre parcel was designated 'Inner Neighborhood', allowing urban-level residential use on the property; and 50% of the parcel was designated 'Corridor', allowing urban-level residential and nonresidential uses on the property. Third, the ordinance applied a temporary 20-acre minimum lot size to protect the status quo while local governments complete amendments to comprehensive plans, scheduled for completion in 2008, to allow urban development. Within this overall framework of these two land use designations, any particular property may have a substantial range of development types and lot sizes. Implicit in these design type designations 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 at the time of Metro's regulatory action was the Clackamas County designation of RRFF-5 on the 6.37-acre parcel. This land use designation is a rural designation allowing one dwelling unit per 5 acres. Since a single-family dwelling is presently on the property, no further development could occur under the RRFF-5 designation. Most significant is that the reference default land use must be outside the present UGB in a rural setting. While seeming to be a subtle distinction, the requirement of a rural setting outside the UGB is conceptually pivotal to the valuation. To use RRFF-5 equivalent land inside the UGB as a basis for valuation includes the property value increasing amenity effects of urban services and infrastructure. It is logically contradictory to argue that inclusion inside the UGB and designation of the land for urban purposes has reduced a property's value but to include those very effects in the estimate of the property value without the subject action.

Alternative Method of Computing Property Value Loss Resulting From Regulation

Estimating loss of property value using the usual appraisal method of "comparative sales" has been the subject of substantial criticism. Andrew Plantinga and William Jaeger², economists at

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).

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 taxicabs 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 1980’s. In the 1950’s through roughly the 1970’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 taxicab 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.

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

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

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.

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 'Inner Neighborhood', 'Corridor' and RRFF-5, assuming health and safety regulations are enforced.
- Estimate value of 50% of property based on recent sales (2004,2005,2006) of lots and existing properties inside the Damascus expansion area designation of 'Inner Neighborhood' development configurations and including a 10-year discount factor for lag time in service provision. Since we implicitly assume the existing residential structure will be removed, account for the existing dwelling unit by adding in the value of a 10-year rent annuity appropriately discounted.
- Estimate value of 50% of property with the 'Corridor' designation assuming higher density residential development and including a 15-year discount factor for lag time in service provision as well as adjusting property values for a smaller lot size product.
- Based on recent sales (2005) of property in a buffer zone extending 1 mile outside the present UGB within Clackamas County, determine the value of residential property on lots of 5 to 15 acres in size. This procedure establishes a reasonable range of values for residential properties of RRFF-5 configuration in a rural setting.
- Provide an alternative determination of loss of value of the Kurtz property based on time series before and after Metro's regulatory action.
- Provide and compare estimates of the value of the subject property as of 2006 with Metro's 'Inner Neighborhood' and 'Corridor' designation versus Clackamas County's RRFF-5.

Kurtz Property Description

The subject property consists of 6.37 acres along the east side of 222nd Drive between Tillstrom Road and Bohna Park Road in the city of Damascus. Clackamas County Assessor data show it as a 6.37-acre parcel with one residential structure. Assessor market value as of 2006 is \$257,295. The land was valued at \$159,855 and the improvements at \$97,440. Data submitted with the claim indicate 6.37 acres of the property was purchased in 1968. Purchase price was \$28,000.

Visual inspection indicates a relatively level northeast sloping pastureland with a home and outbuildings in the northwest corner of the property. Other than the existence of the present structures no visible impediments to development exist.

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

Land Use Capacity Estimates – 6.37-Acre Parcel: 3.0 acres as 'Corridor' and 3.37 acres as 'Inner Neighborhood' and as RRFF-5

As noted above, the Kurtz property is roughly split between Metro's 'Inner Neighborhood' and 'Corridor' designations. Metro's 'Inner Neighborhood' allows a wide range of residential

densities more limited by market and site conditions than regulation. Metro’s ‘Corridor’ designation likewise allows a wide range of residential and nonresidential uses. The market rather than site impose limitations on the Kurtz property. We estimate that the ‘Inner Neighborhood’ portion of the property will be developed within 10 years as moderate value single family with a density of 5 – 7 units per acre. We likewise estimate that the Corridor portion of the property may be developed within 15 years as moderate value medium density owner occupied residential at 10 – 12 units per acre.

Using the RRFF-5 Clackamas County land use designation in effect at the time of Metro’s UGB action, we assume that the property cannot be further subdivided. This assumption results from the fact that the Clackamas County ordinance prohibits division of a parcel smaller than 10 acres. Because the ordinance also limits residential use to one house per parcel smaller than ten acres, and because a residence currently exists on the property, there can be no further residential development in the RRFF-5 zone.

Current Value Estimate of ‘Inner Neighborhood’ and ‘Corridor’ Land in Damascus Expansion Area

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

Since these lots were located in the urbanized, extreme western portion of the expansion area, we also examined a recently developed residential area immediately south of Highway 212 in the Anderegg Road area. Relevant summary results are in Table 1 below.

Table 1: Summary Property Value Data – Damascus Area ‘Inner Neighborhood’ Designation Highway 212 Development

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

When we adjust for lot size, and the availability of full urban services, the data support a lot value range of \$90,000 – \$110,000 per buildable lot in 2006 dollars for ‘Inner Neighborhood’ type development on the subject property. Adjusting for smaller lot sizes, residential uses with the ‘Corridor’ designation would command \$70,000 - \$90,000 per lot at the location of the Kurtz property. This value range encompasses a range of housing types and neighborhood conditions.

Current Value Estimate of “5 Acre Minimum Buildable Lots” in the 1-Mile Buffer Area Outside the UGB

To establish the value range for “20-Acre Minimum” size lots with RRFF-5 zoning within the Clackamas County rural area, we selected all residential properties that sold in 2004 and 2005 within the 1 mile zone subject to the Land Conservation and Development Commission’s 20-acre minimum lot size with a lot size of 5 to 15 acres. These comprised 17 properties and their summary statistics are included below in Table 2.

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

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

The data suggest that the Kurtz land value with a 5-acre minimum lot size restriction that limits the property to 1 residential unit would be worth \$142,000 to \$168,000. Accounting for the residential structure adds another \$100,000 to the value giving a range of \$242,000 to \$268,000 in 2006 dollars. We note that the assessor market value as of 2006 is \$257,295.

Alternative Valuation of Kurtz 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 Kurtz property actually experienced a loss of value after the Metro regulation.

Accordingly, we have tabulated property value data for the entire expansion area from assessor’s records for the years 2000 through 2006. We present the data for the Kurtz 6.37-acre property specifically and for all RRFF-5 designated properties within the expansion area between 5 and 15 acres in size. Table 3 below depicts the results by year.

Table 3: Kurtz Land Value and Expansion Area Land Values 2000 – 2006

Year	Kurtz Value per Acre	Average All 5 – 15 Acre RRFF-5
2000	5,931	9,138
2001	20,799	17,357
2002	21,818	18,854
2003	22,036	19,194
2004	23,128	20,280
2005	24,437	21,515
2006	25,095	23,275

Both the Kurtz property assessor's market value and the average value of all RRFF-5 tax lots within the study area increase steadily from 2003 through 2006. There is no evidence that Metro's action of including the property within the UGB and imposing a temporary minimum lot size of 20 acres has reduced property values.

Table 4: Comparison of Estimated Market Value of Raw Land for Inner Neighborhood, Corridor and RRFF-5 Land Uses

Inner Neighborhood (3.37 acres)	
Low Yield (3.37 x 5):	17 DU (dwelling units)
Low Range Lot Value:	\$90,000
Development Cost per Lot ³ :	\$50,000
Net Raw Land per Lot:	\$40,000
Total Raw Land Value (17x40,000):	\$680,000
Current Market Value 3.37 acres	
Discounted 10 years:	\$362,000
High Yield (3.37 x 7):	23 DU
High Range Lot Value:	\$110,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$60,000
Total Raw Land Value (23x60,000):	\$1,380,000
Current Market Value for 3.37 acres	
Discounted 10 years:	\$735,000
Corridor	
Low Yield (3.0 x 10):	30 DU
Low Range Lot Value:	\$70,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$20,000
Total Raw Land Value (30x20,000):	\$600,000
Current Market Value for 3.0 acres	
Discounted 15 years:	\$233,000
Plus existing house rental at \$800	
For 15 years:	\$90,000
Total Value:	\$323,000
High Yield (3.0 x 12):	36 DU
High Range Lot Value:	\$90,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$40,000
Total Raw Land Value (36x40,000):	\$1,440,000
Current Market Value for 3.0 acres	
Discounted 15 years:	\$560,000
Plus existing house rental at \$800	
For 15 years:	\$90,000
Total Value:	\$650,000
Total Low Value (6.37 acres):⁴	\$685,000

³ We are assuming the cost of converting raw land to buildable lots will be \$50,000 per lot. This figure includes on-site streets, curbs, sidewalks, streetlights, water, sewer, and drainage as well as SDC's for sewer, water, drainage, parks and transportation.

⁴ Total Low Value = Inner Neighborhood low yield + Corridor low yield

Total High Value (6.37 acres):⁵ \$1,385,000

RRFF-5 (5-Acre Minimum)

Low Range:

No Allowable Uses	
Improvement Value:	\$100,000
Land Value (6.37 acres):	\$142,000
Total Value:	\$242,000

High Range:

No Allowable Uses	
Improvement Value:	\$100,000
Land Value (6.37 acres):	\$168,000
Total Value:	\$268,000

We estimate the current raw land value plus residence of the Kurtz property with ‘Inner Neighborhood’ and ‘Corridor’ designations to range from \$685,000 to \$1,385,000. The same property used as Rural Residential in a rural setting with a 5-acre minimum would yield \$242,000 to \$268,000. In other words, the most optimistic rural valuation falls well below the most pessimistic ‘Inner Neighborhood’ valuation. Given these results, we would conclude that the ‘Inner Neighborhood’ and ‘Corridor’ designations have not reduced the value of the property. Quite the contrary, it has most likely increased the value.

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

⁵ Total High Value = Inner Neighborhood high yield + Corridor high yield



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: _____

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

WHAT IS PROPOSED Buildable residential lots of 1 to 5 acres

LEGAL DESCRIPTION: T 1SR 3ESECTION 34C TAX LOT(S) 700

LEGAL DESCRIPTION: T R SECTION TAX LOT(S)

CONTACT Matthew Green-Hite
Tom Leibner / Primogenitor Corporation

MAILING ADDRESS 17940 Oatfield Rd

CITY Gladstone STATE OR ZIP 97027

PHONE (971) 230-0177 CELL PHONE (503) 577-4455

(503) 3512126 Mat

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)

FOR EACH OWNER WHO IS ALSO A CLAIMANT, PLEASE CHECK THE BOX MARKED "CLAIMANT"

NAME Richard L Kurtz CLAIMANT

SIGNATURE Richard L Kurtz

MAILING ADDRESS 12020 SE 222nd Dr

CITY Damascus STATE OR ZIP 97089

PHONE (971) 230-0177 CELL PHONE _____

NAME Sharon K Kurtz CLAIMANT

SIGNATURE Sharon K Kurtz

MAILING ADDRESS 12020 SE 222nd Dr

CITY Damascus STATE OR ZIP 97089

PHONE (971) 230-0177 CELL PHONE _____

NAME _____ CLAIMANT

SIGNATURE _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____ CELL PHONE _____

DEC 4 06 PM 2:30

MEASURE 37 CLAIM
SUPPLEMENTAL INFORMATION

(Attach additional sheets as needed.)

1. Other persons with an interest in the property (such as lien holders):

Name: N/A Phone: _____

Address: _____

Type of Interest: _____

Name: _____ Phone: _____

Address: _____

Type of Interest: _____

2. Exact date the claimant acquired an ownership interest in the property? (Please include a copy of the deed or the contract to purchase.) June 12, 1968

3. If the claimant acquired the property from a family member, what is the exact date the family member acquired the property? N/A

What is the relationship of the family member to the claimant (e.g. father, uncle, brother, etc.)? _____

If there is more than one event where the property was transferred among family members, such as a series of inheritances, please provide a list of all such events, their dates, and the relationship between the parties. If transfer was by inheritance, please provide the date of death.

4. If a husband and wife are both claimants but acquired a documented ownership interest (e.g. deed, contract to purchase) on different dates, please identify the date of the marriage. N/A

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

RRFF-5 : December 17, 1979 (Current County zoning applicable to City Damascus)

METRO Code: Section 3.07.1110 C and Ordinance 98-772B (September 10, 1998)

Ordinance No. 02-969B (2002)

6. Please describe how the regulation(s) restricts the use of the property and reduces the property's fair market value.

RRFF-5 / Restricts lot size to 5 acres; Section 3.07.110C & Ord. 98-772B restricts

Parcels to 20 acres+; Ordinance ~~98-772B~~ places property in UGB (see Attached)

02-9698

7. How much has the fair market value of your property been reduced by enactment or enforcement of the regulation(s)? \$227,295

8. Are you requesting compensation, or removal of the regulation(s), modification of the regulation(s), or a decision not to apply the regulation(s)? (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.)

Request monetary compensation if available; otherwise removal of applicable

regulations listed; as well as any other subsequent regulations that restrict intended use.

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

Single family residential lots of 1 - 5 acres.

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

- a. If the property is owned by a trust (or an LLC, corporation, partnership, etc.) but the claimant is an individual rather than the trust, provide documents sufficient to establish the claimant's relationship to the trust (e.g. trustee, beneficiary) and the date that the relationship originated. This information is also required if the claim relies upon an ownership history that includes previous ownership by a trust.
- b. An appraisal that meets the requirements of the county's Measure 37 Claims Process Ordinance; or other evidence demonstrating that there has been a reduction in the fair market value of the property (e.g. data on sales of comparable properties in the area or fair market values established by the Department of Assessment and Taxation for comparable properties in the area);
- c. 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;
- d. 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;
- e. List of all compensation claims, or development or permit applications previously filed with any regulatory body relating to the property, and any enforcement actions taken by any governmental body, regarding the use restriction identified in Question 5, above.
- f. ~~Claims processing fee \$750.00~~

MEASURE 37 CLAIM

Supplemental information

This claim is submitted with Clackamas County assessor information for valuation purposes. In past hearings METRO has declined to accept assessor information, sales of comparable properties, or real estate listings as acceptable methods of establishing market value (FMV). METRO valuation models have also proven unacceptable in the Legislative (NON-quasijudicial) hearings conducted by METRO if those conclusions are unacceptable (see METRO vs YOUNG).

As neither METRO nor City of Damascus provide a specific form for processing of Measure 37 claims, the form provided by Clackamas County (also used by Damascus) has been utilized for both claims. These claims were signed prior to the December 2, 2006 (Saturday) deadline; but will be delivered December 4, 2006 (Monday). The delivery date of December 4th has been established by the State of Oregon when deadlines fall on weekends or holidays.

#6 Supplemental information form - Continued

Applicant requests removal / decision not to apply Ordinance 02-969B. This ordinance placed this property in the urban growth boundary (UGB). If this ordinance is removed / not applied then the following METRO ordinances would not apply; and the application of FMV utilizing sales data, listings, assessor data, or standard real estate appraisals would be valid.

Applicant requests removal / decision not to apply Section 3.07.110C and Ordinance 98-772B requiring lots to be 20 acres or more pending adaptation of a comprehensive plan by Damascus.

Applicant also requests a written statement from METRO regarding applicability of a METRO waiver after a comprehensive plan is adapted by the City of Damascus.

APPENDIX “A”

OWNERSHIP

OFFICIAL RECORD OF DESCRIPTION
 OF REAL PROPERTY 35804-1 S
 CLACKAMAS COUNTY ASSESSOR

26-01

3E	34	C	700				
S. RGE.	SEC.	1/4	1/16	TAX LOT NUMBER	TYPE	SPEC. INT. IN REAL PROP.	CODE AREA NUMBER

FORMERLY PART OF T.L. NO.

MAP NUMBER	ACCOUNT NUMBER	Date of Entry on this Card	DEED RECORD		ACRES REMAINING	ACRES REMAINING
			VOL.	PG.		

Siron, Horley & Barbara
 Exc: Regner Rd No 233 0.90 10-13-66
 Kurtz, Richard Lee & Sharon K. 9-11-68 68-11233
 A.

UNIFICATION GRESHAM-BARLOW
 SD 26 DOR 26-585-94 94-95 ROLL

TRANSFER TO MULT-ELEM ESD
 DOR 26-599-95 1995-96 ROLL

Kurtz

KNOW ALL MEN BY THESE PRESENTS, THAT HARLEY SIRON and BARBARA SIRON,

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by RICHARD LEE KURTZ and SHARON K. KURTZ, husband and wife

hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of CLACKAMAS and State of Oregon, described as follows, to-wit:

The North third of the West half of the Southwest quarter, of the Southwest quarter of Section 34, T. 1S., R. 3E., of the W.M., in Clackamas County, Oregon, except the rights of the public in and to public roads.

from below/ of Portland, Oregon, which grantee agrees and assumes to pay.

Handwritten note: 2/14/68

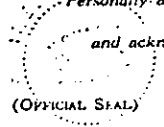
To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances except conditions, restrictions, and easements of record, and mortgage dated April 7, 1968, recorded April 10, 1968, Recorder's Fee No. 68-6660, Clackamas County, to Portland Federal Savings and Loan Association/ see 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 \$28,000.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which).

In construing this deed and where the context so requires, the singular includes the plural. WITNESS grantor's hand this 12th day of June, 1968

Handwritten signature: Barbara Siron

STATE OF OREGON, County of Multnomah, June 12, 1968. Personally appeared the above named HARLEY SIRON and BARBARA SIRON, husband and wife and acknowledged the foregoing instrument to be their voluntary act and deed. Before me: Notary Public for Oregon, My commission expires 12/31/1972



NOTE-The sentence between the symbols (), if not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by the 1967 Special Session.

WARRANTY DEED

Harley Siron, et ux TO Richard Lee Kurtz, et ux

AFTER RECORDING RETURN TO [Address]

STATE OF OREGON, County of Clackamas, I, Robert Schumaker, County Clerk, Ex. Of. Rec. of Conveyances and Ex. Of. 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 record and recorded in the office of the County Clerk of said County on the 12th day of June, 1968.

By [Signature] of said County at PORTLAND, OREGON, June 14, 1968

Notary Public for Oregon, My commission expires 12/31/1972. On Page 110. With my seal and seal of said Court filed for record in the office of the County Clerk, Clackamas County, Oregon. Deputy.

635

APPENDIX "B"

FAIR MARKET VALUE

KURTZ
6.37 acre

FAIR MARKET (FMV) ANALYSIS

Comarables / "COMP" values

COMPS

<u>Property ID</u>	<u>Acres</u>	<u>Assessed Value</u>	<u>Comment</u>
22310 SE Tillstrom	.91	104,933.	
12237 SE 222nd Dr	1.09	125,479.	
22115 SE Lagave St	1.24	130,209.	
	<u>1.08</u>	<u>120,207</u>	

Notes / Comment:

\$120,000 / 1 Acre

CURRENT FMV

(Assessor) Land \$ _____

Land \$ _____

Land \$ 159,855.

Improvements \$ 97,440.

*** Current TOTAL \$ 257,295.

POTENTIAL FMV

Land \$ 159,855

Improvements \$ 97,440

Reduction / Lot size \$ (30,000)

SUBTOTAL \$ 227,295

New Lots FMV \$ 120,000

Less Development Cost \$ (20,000)

X 4 Lots

SUBTOTAL \$ 400,000.

*** Potential TOTAL \$ 627,295

***** LOSS / REDUCTION OF FMV*****

\$ (227,295)

APPENDIX "C"

COMPARABLES

PortlandMaps

* Comps - for 12020 SE 222nd Drive

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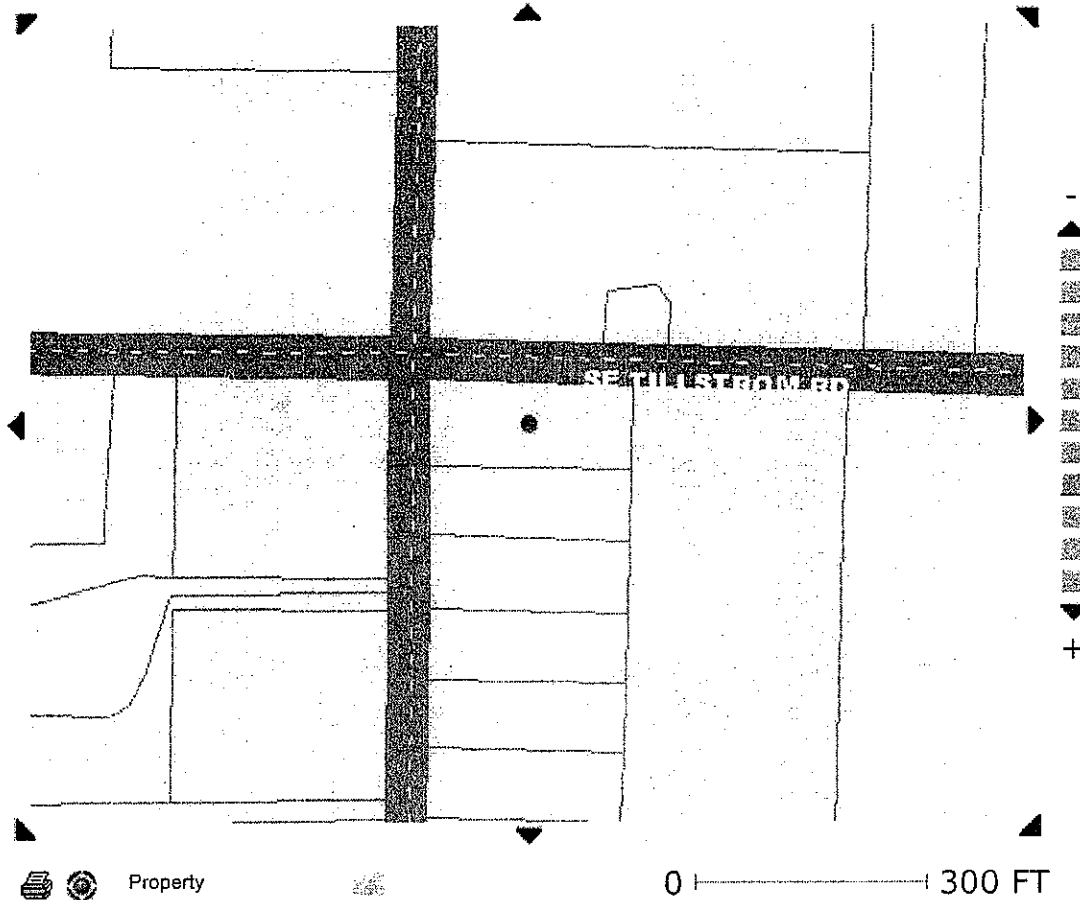
22310 SE TILLSTROM RD - CLACKAMAS COUNTY

Explorer | Property | Maps | Crime | Census | Transportation

Explore the area, view different themes

Property Detail

Long -122.43391 Lat 45.43904



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11/27/2006

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Address | Mapping | Advanced | Google Earth | Help | About

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(Almost 1 Acre)

Resolution No. 07-3774
Attachment 4

PortlandMaps

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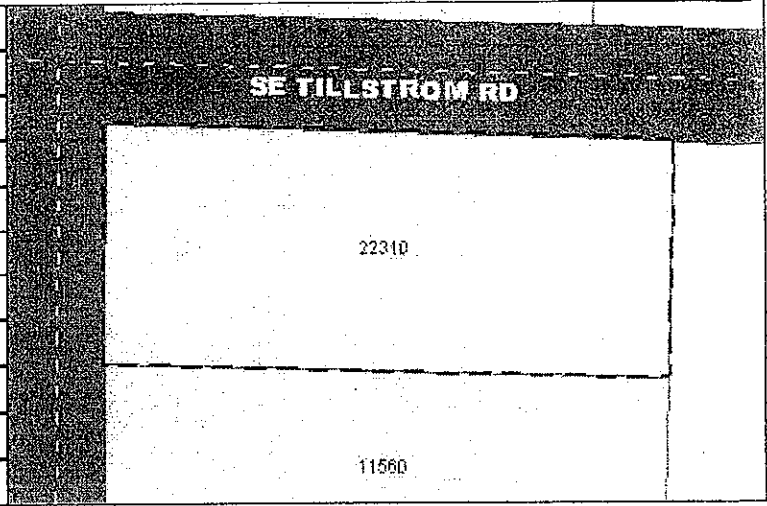
22310 SE TILLSTROM RD - CLACKAMAS COUNTY

Explorer | **Property** | Maps | Crime | Census | Transportation

[Summary](#) | [Assessor](#) | [Permits/Cases](#) | [Block](#) | [Schools](#) | [Parks](#) | [Capital Projects](#) | [Development](#) | [Clean River Rewards](#) | [Noise](#) | [Storage Tank](#)

General Information

Property ID	C217729
County	CLACKAMAS
State ID	13E34C 00601
Alt Account #	144052
Map Number	



Site Info	
Site Address	22310 SE TILLSTROM RD
City/State/Zip	GRESHAM

0 ————— 107 FT

Property Description

Tax Roll	Use
Lot	Block

Tax Districts

Tax Code	26028	Fire
Park		Water
School		Sewer

Deed Information

Sale Date	Type	Instrument	Sale Price
01/01/1995			\$45,000.00

Land Information

Type	<i>291</i> Acres	SQFT
SFR		39,625

Improvement Information

Improvement Type	
Improvement Value	\$133,280.00
Room Descriptions	
Building Class	
Actual Year Built	1972
Effective Year Built	
Number of Segments	
Construction Style	
Foundation Type	
Interior Finish	
Roof Style	
Roof Cover Type	
Flooring Type	
Heating/AC Type	
Plumbing	
Fireplace Type	

Resolution No. 07-3774
Attachment 4

Improvement Details

# Segment Type	Class	Total Area
No Improvement Segment Information Available		

Tax History

Year	Property Tax	Total Tax
No Tax History Information Available		

Assessment History

Year	Improvements	Land	Special Mkt/Use	Real Market	Exemptions	Assessed
2006	\$133,280.00	\$104,933.00	\$0.00	\$238,213.00	\$0.00	\$0.00

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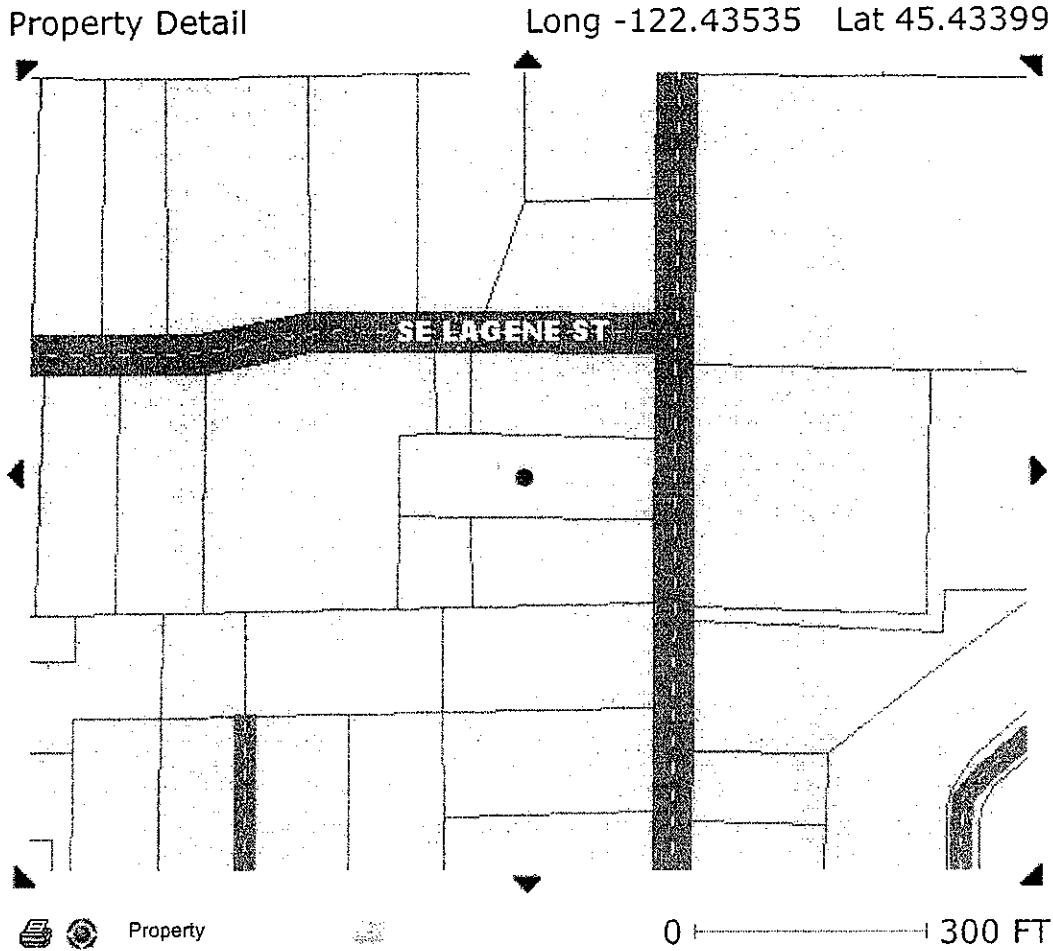
PortlandMaps

12237 SE 222ND DR - CLACKAMAS COUNTY

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[Explorer](#) | [Property](#) | [Maps](#) | [Crime](#) | [Census](#) | [Transportation](#)

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Just over 1 Acre.

PortlandMaps

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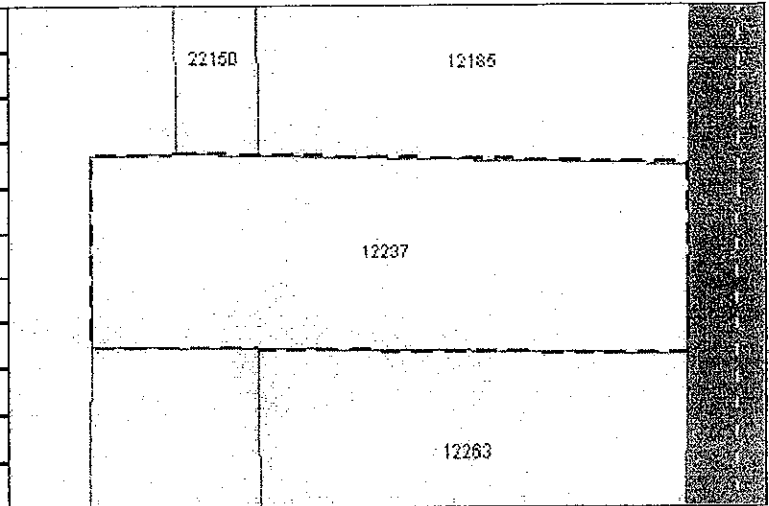
12237 SE 222ND DR - CLACKAMAS COUNTY

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General Information

Property ID C217627
County CLACKAMAS
State ID 13E33D 01902
Alt Account # 142991
Map Number
Site Info
Site Address 12237 SE 222ND DR
City/State/Zip BORING



0 ————— 128 FT

Property Description

Tax Roll	Use		
Lot	Block		
Tax Districts			
Tax Code 26028	Fire		
Park	Water		
School	Sewer		
Deed Information			
Sale Date	Type	Instrument	Sale Price
			\$0.00

Land Information

Type	Acres	SQFT
SFR	1.09 acre(s)	47,661

Improvement Information

Improvement Type	
Improvement Value	\$154,030.00
Room Descriptions	
Building Class	
Actual Year Built	1950
Effective Year Built	
Number of Segments	
Construction Style	
Foundation Type	
Interior Finish	
Roof Style	
Roof Cover Type	
Flooring Type	
Heating/AC Type	
Plumbing	
Fireplace Type	

Resolution No. 07-3774
Attachment 4

Improvement Details

# Segment Type	Class	Total Area
No Improvement Segment Information Available		

Tax History

Year	Property Tax	Total Tax
No Tax History Information Available		

Assessment History

Year	Improvements	Land	Special Mkt/Use	Real Market	Exemptions	Assessed
2006	\$154,030.00	\$125,479.00	\$0.00	\$279,509.00	\$0.00	\$0.00

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Assessor Data Updated 11/20/2006

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22115 SE LAGENE ST - CLACKAMAS COUNTY

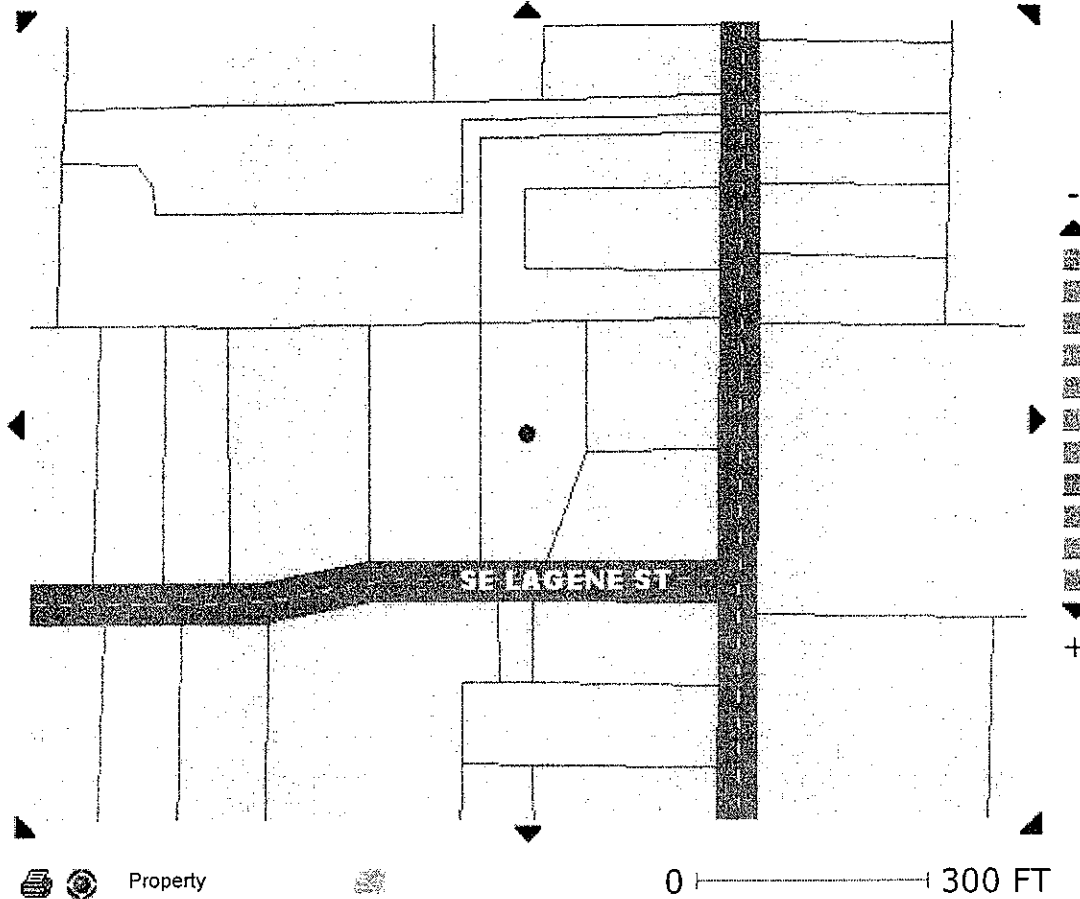
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Property Detail

Long -122.43575 Lat 45.43522



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11/27/2006

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Just over 1 acre, (10,000 sq. feet more)

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22115 SE LAGENE ST - CLACKAMAS COUNTY

Explorer | **Property** | Maps | Crime | Census | Transportation

[Summary](#) | [Assessor](#) | [Permits/Cases](#) | [Block](#) | [Schools](#) | [Parks](#) | [Capital Projects](#) | [Development](#) | [Clean River Rewards](#) | [Noise](#) | [Storage Tank](#)

General Information

Property ID C217961	
County CLACKAMAS	
State ID 13E33D 01905	
Alt Account # 143026	
Map Number	
Site Info	
Site Address 22115 SE LAGENE ST	
City/State/Zip BORING	

0 |—————| 184 FT

Property Description

Tax Roll	Use
Lot	Block
Tax Districts	
Tax Code 26028	Fire
Park	Water
School	Sewer

Deed Information

Sale Date	Type	Instrument	Sale Price
11/01/1986			\$82,000.00

Land Information

Type	Acres	SQFT
SFR	1.24	53,801

Improvement Information

Improvement Type	
Improvement Value	\$180,830.00
Room Descriptions	
Building Class	
Actual Year Built	1972
Effective Year Built	
Number of Segments	
Construction Style	
Foundation Type	
Interior Finish	
Roof Style	
Roof Cover Type	
Flooring Type	
Heating/AC Type	
Plumbing	
Fireplace Type	

Resolution No. 07-3774
Attachment 4

Improvement Details

# Segment Type	Class	Total Area
No Improvement Segment Information Available		

Tax History

Year	Property Tax	Total Tax
No Tax History Information Available		

Assessment History

Year	Improvements	Land	Special Mkt/Use	Real Market	Exemptions	Assessed
2006	\$180,830.00	\$130,209.00	\$0.00	\$311,039.00	\$0.00	\$0.00

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11825 SE 222ND DR - CLACKAMAS COUNTY

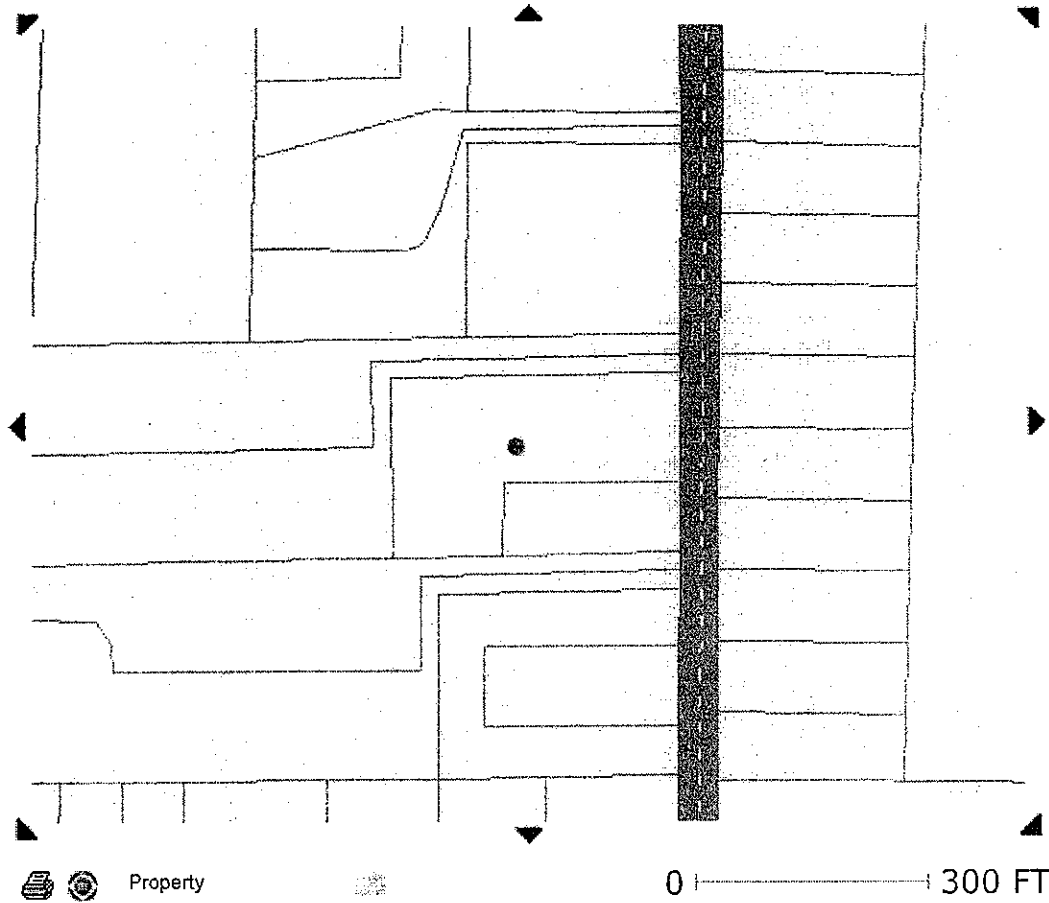
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Property Detail

Long -122.43557 Lat 45.43710



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Resolution No. 07-3774
Attachment 4

APPENDIX “D”

SUBJECT PROPERTY

12020 SE 222nd Dr
Damascus OR 97089



Property Information

Owner(s)	Kurtz Richard Lee / Kurtz Sharon K	Parcel #	00144178
Property	12020 SE 222nd Dr	Map Coord	659-B3; 1S-3E-34-SW
	Damascus, OR 97089	Census Tract	0232.01
Mailing Addr	12020 SE 222nd Dr	County	Clackamas
	Damascus , OR 97089	Owner Phone	
Legal Lot Number	SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER C TAX LOT 00700 700		

Characteristics

Use	Farms	Year Built	1938	Sq. Feet	1408
Zoning		Lot Size	6.37 / 277477.2	# of units	
Bedrooms	2	Bathrooms	1	Fireplace	
#Rooms		Quality	Below Average	Heating	
Pool/Spa	N	Air	N	Style	
Stories	1	Improvements		Parking	
Flood	D				

Attributes COMPOSITION SHINGLE ; CONCRETE
Other

Property Sale Information

Sale Date		\$/Sq. Ft.		2nd Mtg.	
Sale Price		1st Loan		Prior Sale Amt.	
Doc No.	11233	Loan Type		Prior Sale Dt.	
Doc Type		Xfer Date		Prior Doc No.	
Seller		Lender		Prior Doc Type	

Tax Information

Imp Value	\$97,440.00	Exemption	
Land Value	\$159,855.00	Tax Year/Area	2005/026008
Total Value	\$257,295.00	Tax Value	\$257,295.00
Tax Amount	\$1,386.31	Improved	38%

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

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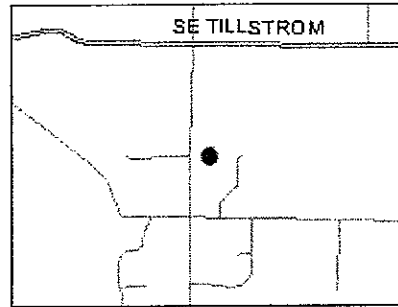
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12020 SE 222ND DR - CLACKAMAS COUNTY

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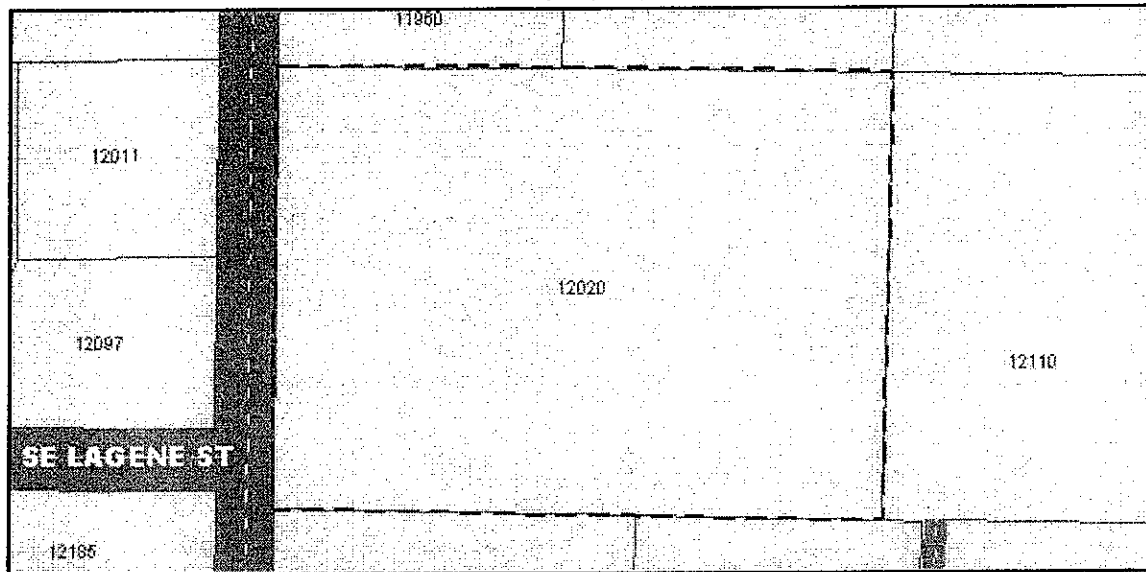
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12020 SE 222ND DR



Description
Size n/a
Number of Bedrooms
Bathrooms

Property Map



Property Value (2006)

Market Value	\$257,295.00
Assessed Value	\$0.00

Taxes ()

Property Taxes	\$0.00
Total Taxes	\$0.00

Misc Info

Year Built	1938
Foundation Type	
Interior Finish	
Roof Style	
Roof Cover Type	
Flooring Type	
Heating/AC Type	

City of Portland, Corporate GIS

Assessor Data Updated 11/20/2006

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Attachment 4

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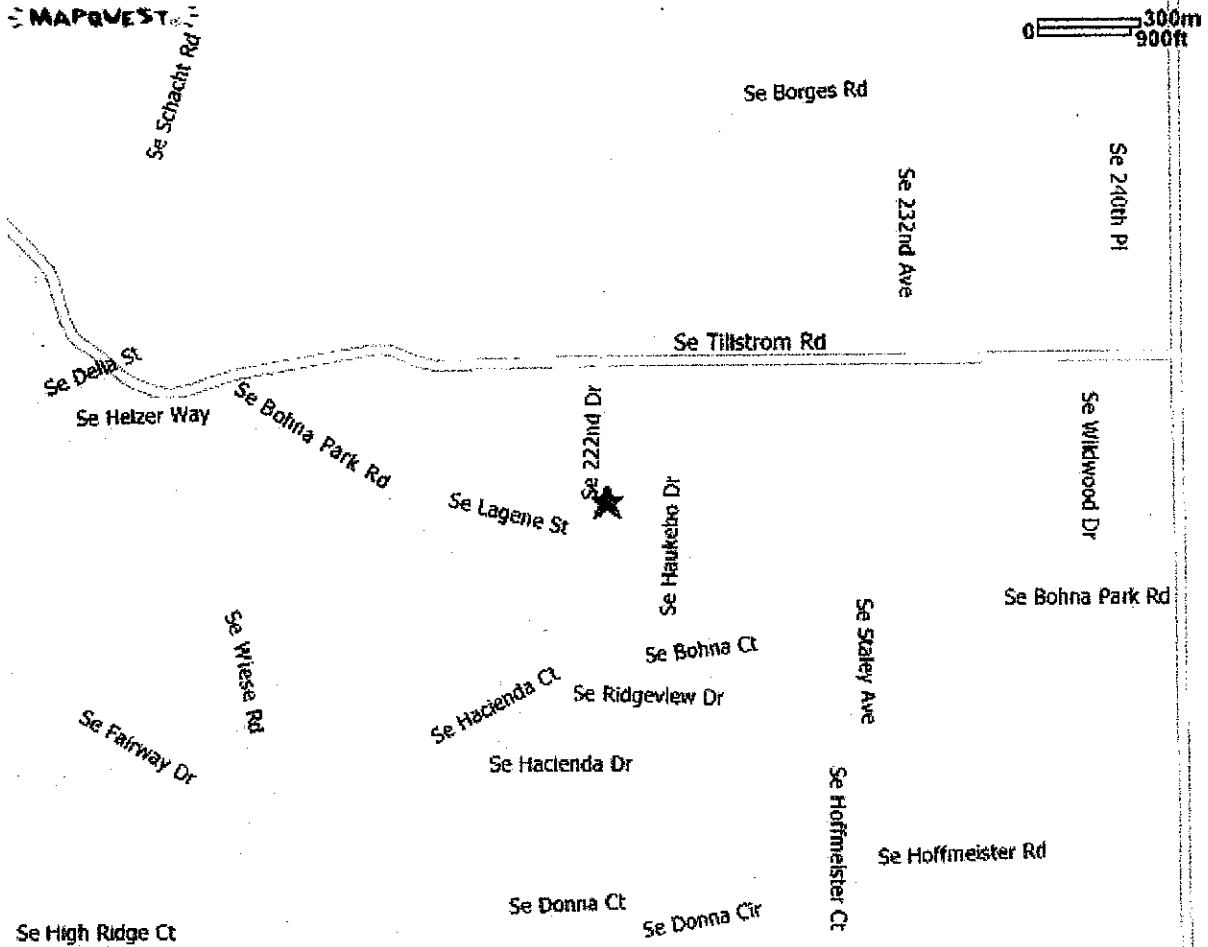
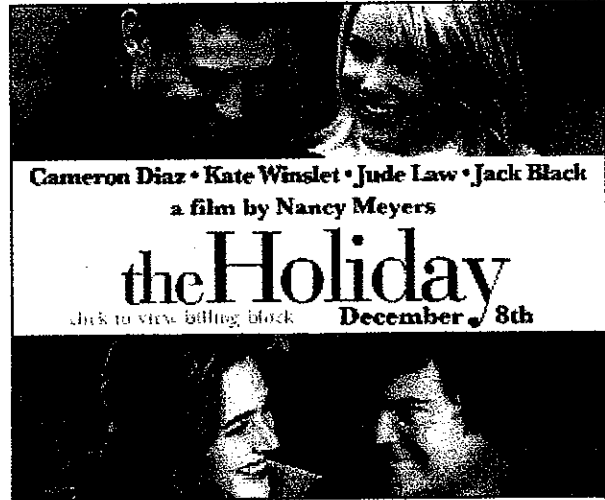
APPENDIX "E"

MAPS



[11900-12058] Se 222nd Dr
Damascus OR
97089 US

Notes:



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Resolution No. 07-3774
Attachment 4

PortlandMaps

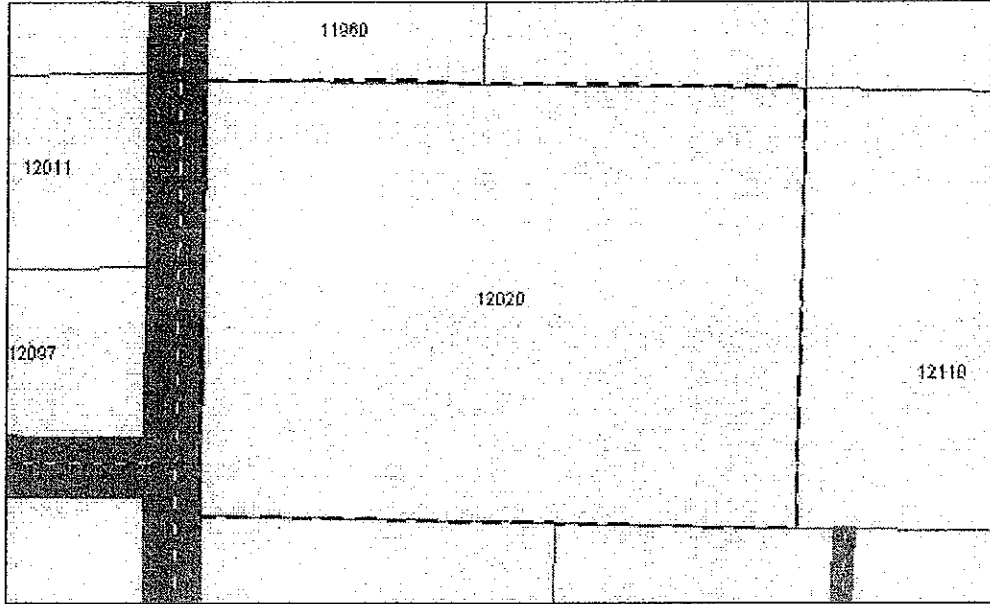
12020 SE 222ND DR - CLACKAMAS COUNTY

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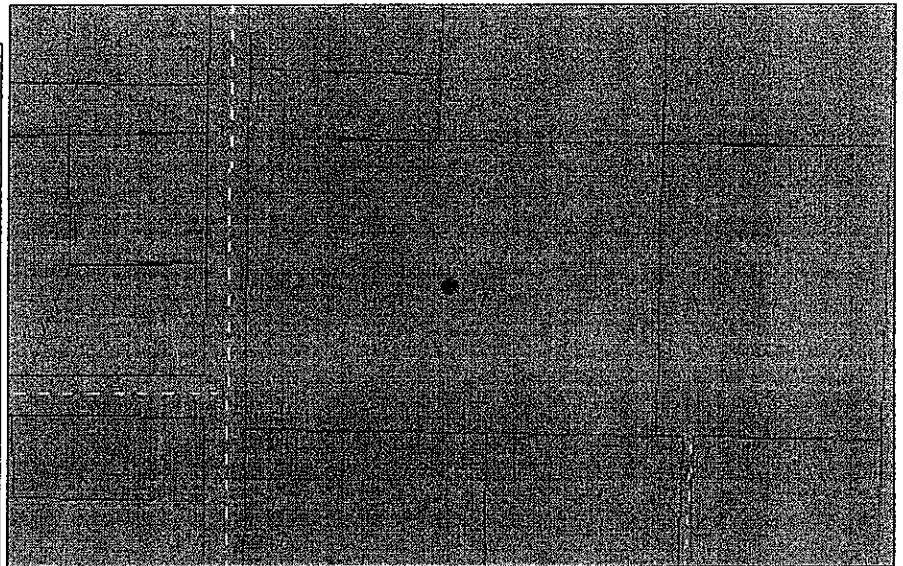
[Summary](#) | [Elevation](#) | [Garbage](#) | [Hazard](#) | [Natural Resources](#) | [Photo](#) | [Property](#) | [Water](#) | [Sewer](#) | [Tax Map](#) | [UGB](#) | [Watershed](#) | [Zip Code](#) | [Zoning](#)

Property & Location

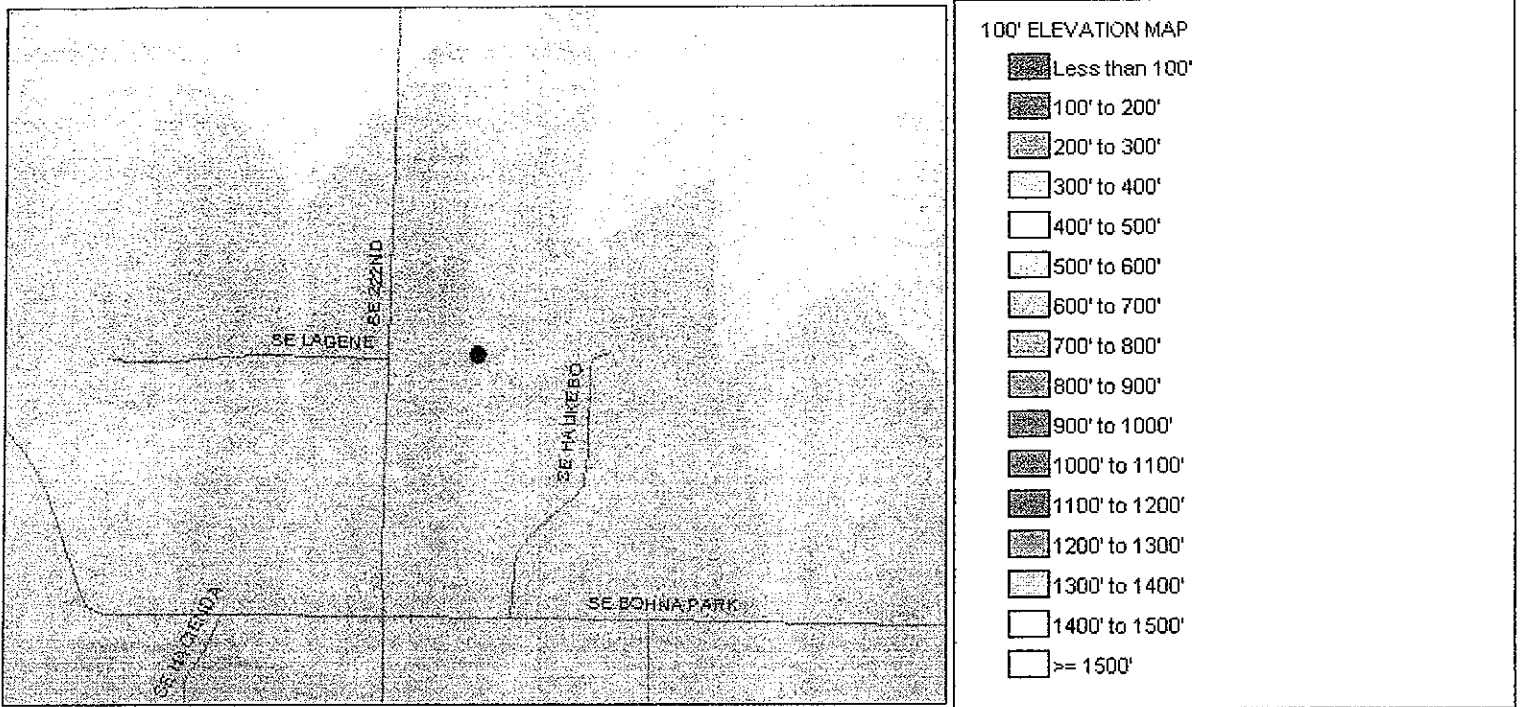


Zoning

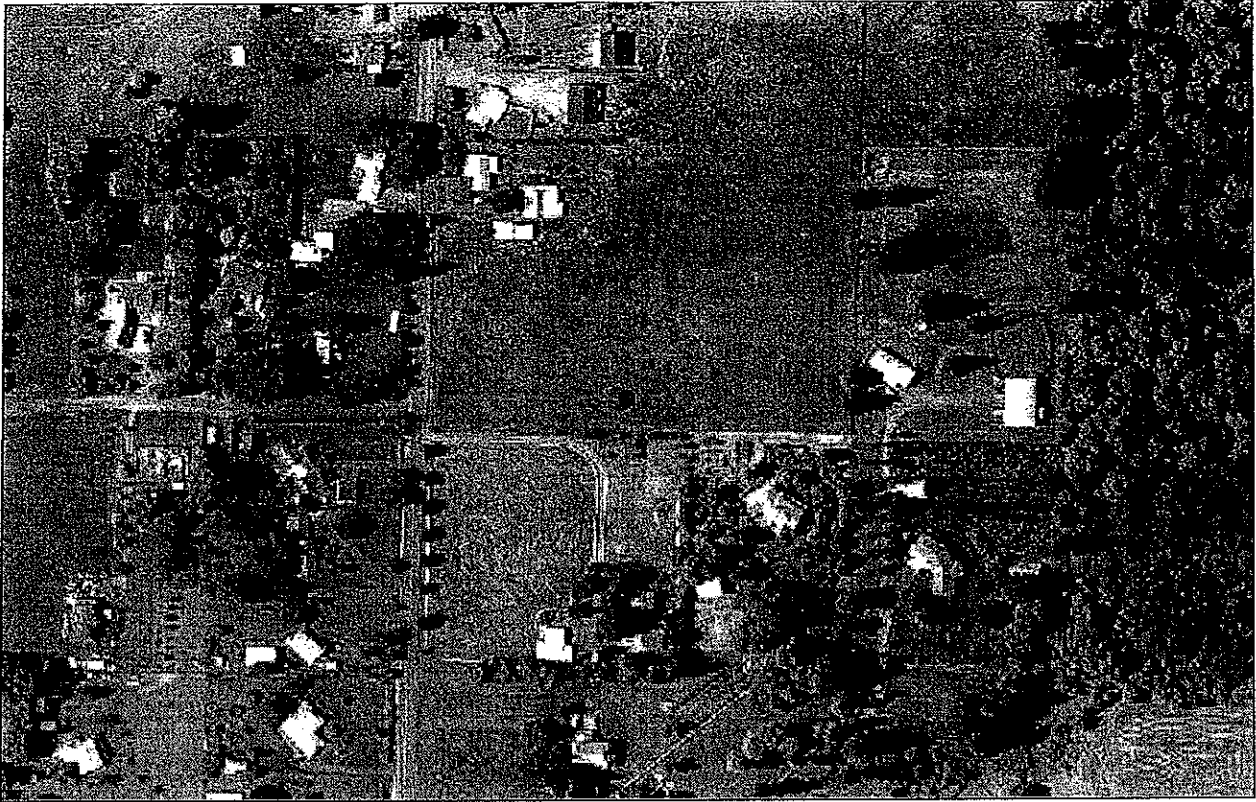
Property	
Zone	
Description	n/a
Overlay	n/a
Comp Plan	
Comp Plan Overlay	
Historic District	n/a
Conservation District	
Plan District	
NRMP District	
Urban Renewal District	n/a
Zoning Map	n/a



Elevation Map



Aerial Photo (2005)



City of Portland, Corporate GIS

11/27/2006

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APPENDIX “F”

STATEMENT OF
AUTHORIZATION

Primogenitor Corporation

MEASURE 37 AUTHORIZATION

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

Richard L. Kuntz
Claimant

12/2/06
Date

Sharon K. Kuntz
Claimant

12/2/06
Date

Claimant

Date

Claimant

Date

Township 1 S R 3E Section 34C Lot(s) 700

Township S R Section Lot(s)

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER) Resolution No. 07-3775
RELATING TO THE NANCY J. ROUNSEFELL,)
TRUSTEE OF JAMES L. ROUNSEFELL AND) Introduced by Chief Operating Officer
NANCY J. ROUNSEFELL CLAIM FOR) Michael Jordan with the concurrence of
COMPENSATION UNDER ORS 197.352) Council President David Bragdon
(MEASURE 37))

WHEREAS, Nancy J. Rounsefell, Trustee for the James L. Rounsefell and Nancy J. Rounsefell Trust, filed a claim for compensation under ORS 197.352 (Measure 37) contending that Metro regulations had reduced the fair market value of property they own in the city of Damascus; and

WHEREAS, the Chief Operating Officer (“COO”) reviewed the claim and submitted reports to the Metro Council, pursuant to section 2.21.040 of the Metro Code, recommending denial of the claim for the reason that the Metro regulation that is the basis for the claim did not reduce the fair market value of the claimant’s property; and

WHEREAS, the Metro Council held a public hearing on the claim on February 15, 2007, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

- 1. Enters Order 07-019, attached to this resolution as Exhibit A, which denies the claim for compensation.
- 2. Directs the COO to send a copy of Order No. 07-019, with Exhibit A attached, to the claimant, 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 15th day of February, 2007

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 07-3775

Order No. 07-019

RELATING TO THE NANCY J. ROUNSEFELL, TRUSTEE FOR THE JAMES L. ROUNSEFELL
AND NANCY J. ROUNSEFELL CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimant: Nancy J. Rounsefell, Trustee for the James L. Rounsefell and Nancy J. Rounsefell Trust

Property: 22515 SE Hoffmeister Road, Damascus, Oregon;
Township 2S, Range 3E, Section 3BC, Tax Lot 0100 (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.

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

The Metro Council considered the claim at a public hearing on February 15, 2007.

IT IS ORDERED THAT:

The claim of Nancy J. Rounsefell, Trustee for the James L. Rounsefell and Nancy J. Rounsefell Trust for compensation be denied because it does not qualify for compensation for reasons set forth in the reports of the COO.

ENTERED this 15th day of February, 2007.

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

**In Consideration of Council Order No. 07-019
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of Nancy J. Rounsefell, Trustee of the James L. Rounsefell Trust
and the Nancy J. Rounsefell Trust**

January 23, 2007

METRO CLAIM NUMBER: Claim No. 07-019

NAME OF CLAIMANT: Nancy J. Rounsefell

MAILING ADDRESS: c/o Wendy Burns
Burns and Olson Realtors, Inc.
20500 SE Highway 212
Damascus, OR 97089

PROPERTY LOCATION: 22515 SE Hoffmeister Rd.
Damascus, OR 97089

LEGAL DESCRIPTION: Township 2 South, Range 3 East
Section 3BC, Tax lot 0100¹

DATE OF CLAIM: December 1, 2006

I. CLAIM

Claimant Nancy J. Rounsefell seeks compensation in the amount of \$2,219,250 for a claimed reduction in fair market value (FMV) of property owned by the claimant as a result of enforcement of Metro Code Section 3.07.1110 C of Title 11 (Interim Protection of Areas Brought into the Urban Growth Boundary) and Metro Ordinance 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). In lieu of compensation, claimant seeks a waiver of those regulations so claimant can apply to the City of Damascus to divide the 18.41-acre subject property into residential lots of unspecified lot size.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on January 25, 2007. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at www.metro-region.org.

II. SUMMARY OF COO RECOMMENDATION

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that Metro's action to bring claimant's land into the Urban

¹ The Rounsefell Claim also includes a separate .9-acre tax lot with an existing structure. Since both Claimant and Metro agree that this tax lot has not been adversely affected by Metro's action, we are not including it in this report.

Growth Boundary (UGB), designate it Inner Neighborhood (allowing high-density residential development), and applying a temporary 20-acre minimum lot size while planning is completed did not reduce the fair market value of claimant's 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 December 1, 2006. The claim identifies Metro's Urban Growth Management Functional Plan's temporary 20-acre minimum lot size requirement as the basis of the claim. It is assumed herein that claimant is referring to Metro Code section 3.07.1110 C, and Metro Ordinance 02-969B as the basis of the claim.

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

Conclusions of Law

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

IV. ANALYSIS OF CLAIM

1. Ownership

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

Findings of Fact

The claimant has provided a preliminary title report from Pacific Northwest Title, dated November 28, 2006, which names Nancy J. Rounsefell as Trustee of the trust that owns the subject property. Attachment 1 is a site map of the subject property (ATTACHMENT 1). The subject property has no improvements.

Conclusions of Law

The claimant, Nancy J. Rounsefell, is owner of the subject property as defined in the Metro Code.

2. Zoning History

According to claimant, the subject property was zoned R30 in 1973 and was subsequently zoned RRFF-5 in 1975/76. The subject property carried this same RRFF-5 zoning at the time of its annexation into the

UGB. The RRF-5 zoning designation allowed minimum lot sizes of five acres with one residence per lot.

3. Applicability of a Metro Functional Plan Requirement

Findings of Fact

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

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

Conclusions of Law

Section 3.07.1110 C of the Metro Code applies to the subject property and became applicable after the claimant acquired the property. Thus, the section did not apply to the subject property at the time claimant acquired it. The section does not allow the claimants to partition or subdivide their 18.41-acre property until the City of Damascus adopts its comprehensive plan.

4. Effect of Functional Plan Requirements on Fair Market Value

Findings of Fact

Section 2.21.040(d)(5) of the Metro Code 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 claimant's land. The COO's conclusion is based upon the analysis of the effect of Metro's action contained in ATTACHMENT 2 (Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel dated January 25, 2007 (Conder Memo)).

Claimant has submitted a market analysis with the assertion that the temporary 20-acre minimum size has reduced the value of their property by \$2,219,250. The market analysis states that only one of the two tax lots that comprise the subject property suffers a loss in value (lot 100, 18.41 acres). The analysis states that tax lot 800 (.9-acres) suffers no loss since it is already a legal lot of record with an existing house.

Claimant's market analysis assumes that, given the lack of sewer service, tax lot 100 has the potential for 18 buildable lots of one acre each. The analysis states that one-acre lots would be of sufficient size to support a septic system.

Claimants assert the following diminution in value attributable to Metro regulations:

Current FMV subject to regulation (tax lot 100 only):

Land:	\$1,380,750	
Improvements:	\$ -	
Current FMV:		\$1,380,750

Assertion of potential FMV assuming 18 buildable lots:

18 new lots FMV:	\$4,500,000	
Less development costs:	\$(900,000)	
Potential net FMV:		\$3,600,000
Claimed reduction in FMV:		\$2,219,250

The Conder Memo analyzes the subject property FMV, using two different methods for determining the effect of Metro's action on the value of claimant's property:

A. "Comparable Sales" Method

This method compares the value of the property in its current regulatory setting with its value today as though Metro's action had not happened, using transactions involving comparable properties in both "before" and "after" scenarios. Under the "before" scenario, the property would be outside the UGB with the zoning that applied at the time of the application of Metro's regulation: 18.41-acres (tax lot 100 only) zoned RRFF-5 (Rural Residential-Farm/Forest, five acre minimum lot size). Given these zoning requirements, claimant, in the absence of Metro's regulation, could have obtained approval to divide their 18.41-acre property into a maximum of three lots. Each of the three lots would be eligible for one single-family dwelling.

Under the "after" scenario (current regulatory setting), the land lies within the UGB. The property is designated Inner Neighborhood. The property is subject to a temporary 20-acre minimum lot size to preserve the status quo while the City of Damascus completes the comprehensive planning necessary to allow urbanization of the previously rural (outside the UGB) land. The comparable sales method assumes claimant will eventually be able to use the property for high-density residential development (ranging from 74 to 110 residential lots on the buildable portions of the subject property).

Table 4 of the Condor Memo compares today's value of the property before and after Metro's action, adjusting in both cases for costs of development and limitations on development of the site that a prudent investor would take into account. The table shows that the FMV of the property under existing regulations greatly exceeds the value of the property under RRFF-5 zoning outside the UGB. The analysis using this methodology indicates that the current regulatory setting has not reduced the FMV of the property. In fact, the analysis indicates that Metro's actions have increased the property's FMV.

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

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

Conclusions of Law

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

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

5. Exemptions under ORS 197.352(3)

Findings of Fact

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

Conclusions of Law

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

6. Relief for Claimant

Findings of Fact

The Metro Council has appropriated no funds for compensation of claims under Measure 37. Waiver of Metro Code Section 3.07.1110 C to the subject property would allow the claimant to apply to the City of Damascus to divide the subject property into lots of unspecified size and to develop a single family dwelling on each lot. The effect of development as proposed by the claimant will be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

Based on the record, the 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 3.07.1110 C.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Rounsefell claim for the reason that the Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B did not reduce the value of the subject property.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Subject Property

Attachment 2: Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Rounsefell Measure 37 Claim," dated January 25, 2007


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

Attachment 4: Nancy J. Rounsefell Measure 37 Claim Submittal to Metro



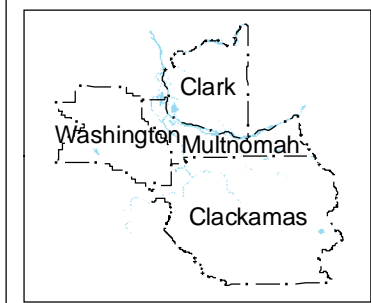
Resolution No. 07-3775
Attachment 1 COO Report

Site Map Rounsefell 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 0.08 miles
0 50 100 200 300 400 Feet



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

January 24, 2007

To: Ray Valone
Richard Benner

From: Sonny Conder
Karen Hohndel

Subject: Valuation Report on the Rounsefell Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Rounsefell Measure 37 Claim. The Metro designation of ‘Inner Neighborhood’ applies to the Rounsefell Claim. We conclude, using the comparable sales method of determining possible reduction in value that the Metro action of including the 18.41-acre¹ property inside the urban growth boundary (UGB), designating it ‘Inner Neighborhood’ and imposing a temporary 20-acre minimum lot size for development did not produce a material loss of value for the subject property². In all likelihood, the action produced an increase in value for the claimant’s property.

Using a time series variation of the Plantinga-Jaeger method of determining property value loss due to regulation also indicates no loss of value for the 18.41-acre parcel. This conclusion rests on the observation that the assessor’s market value for that particular property has continued to increase since the Metro 2003 regulation. Moreover, the entire class of comparably sized RRFF-5 acre lot size designated parcels within the expansion area has continued to increase since the Metro 2003 regulation.

The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's action of March 5, 2003. The comparable sales method compares today's value of similarly situated properties under current regulations with today's value under the regulations in place before Metro's action. The Plantinga-Jaeger method provides a more clear and accurate answer to the question posed by Measure 37: Did Metro's action reduce the fair market value (FMV) of the Rounsefell property? Application of the method shows that the FMV of the Rounsefell property continued to rise after Metro included it in the UGB with the ‘Inner

¹ The Rounsefell Claim also includes a .9-acre separate tax lot with an existing structure. Since both Claimant and Metro agree that this tax lot has not been adversely affected by Metro’s action, we are not including it in the valuation report.

² 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.

Neighborhood' designation and the temporary 20-acre minimum lot size. Thus, the Metro Council should deny the Rounsefell claim for compensation or waiver.

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

Conceptual Understanding for Basis of Property Value Analysis:

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

1. Estimate the fair market value of the property subject to the regulation that the claimant contends has reduced the value of his property.
2. Estimate the fair market value of the property today as though it were subject to the regulations in place prior to the date Metro first applied the regulation to the claimant's property.

Metro Ordinance No. 02-969B applied a set of new regulations to the claimant's property. First, the ordinance brought the claimant's property into the region's UGB, making the property eligible for urban residential densities on the parcel rather than rural low-density development. The entire 18.41 acre parcel was designated 'Inner Neighborhood', allowing residential use on the property. Second, the ordinance applied a temporary 20-acre minimum lot size to protect the status quo while local governments complete amendments to comprehensive plans, scheduled for completion in 2008, to allow urban development. Within the overall framework of this land use designation, any particular property may have a substantial range of development types and lot sizes. Implicit in this design type 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 at the time of Metro regulatory action was the Clackamas County designation of RRFF-5 on the 18.41-acre parcel. This land use designation is a rural designation allowing one dwelling unit per 5 acres. Most significant is that the reference default land use must be outside the present UGB in a rural setting. While seeming to be a subtle distinction, the requirement of a rural setting outside the UGB is conceptually pivotal to the valuation. To use RRFF-5 equivalent land inside the UGB as a basis for valuation includes the property value increasing amenity effects of urban services and infrastructure. It is logically contradictory to argue that inclusion inside the UGB and designation of the land for urban purposes has reduced a property's value but to include those very effects in the estimate of the property value without the subject action.

Alternative Method of Computing Property Value Loss Resulting From Regulation

Estimating loss of property value using the usual appraisal method of “comparative sales” has been the subject of substantial criticism. Andrew Plantinga and William Jaeger³, 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 taxicabs 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 1980’s. In the 1950’s through roughly the 1970’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 taxicab 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.

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

³ 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.

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 should be compensated for what they lost due to the application of Metro's regulations. They are not awarded an extra benefit owing to unanticipated growth, infrastructure investment or regulatory changes irrespective of any Metro changes.

Property Valuation Analysis Procedure

Our property valuation analysis procedure consists of the following steps.

- Briefly describe the property and make a prudent assessment of development limitations to establish a likely range of development capacity under both 'Inner Neighborhood', and RRFF-5, assuming health and safety regulations are enforced.
- Estimate value of property based on recent sales (2004,2005,2006) of lots and existing properties inside the Damascus expansion area of 'Inner Neighborhood' development configurations including a 10-year discount factor for lag time in service provision.
- 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 10 to 25 acres in size. This procedure establishes a reasonable range of values for residential properties of a RRFF-5 configuration in a rural setting.
- Provide an alternative determination of loss of value of the Rounsefell property based on time series before and after Metro's regulatory action.
- Provide and compare estimates of the value of the subject property as of 2006 with Metro's 'Inner Neighborhood' designation versus Clackamas County's RRFF-5.

Rounsefell Property Description

The subject property consists of 18.41 acres along the north side of SE Hoffmeister Road, east of SE 222nd Drive in the city of Damascus. Clackamas County Assessor data show it as an 18.41-acre parcel in forestry/agriculture use with no improvements. Assessor market value as of 2006 is \$220,756. Visual inspection indicates the parcel is sloping gently to the northwest with a gain of 40 feet from south to north. Until recently the parcel was used as a tree farm and numerous small trees remain unharvested. The land in general commands an excellent view toward Mt. Hood and may be regarded a view property for residential purposes. No visible impediments to development are apparent.

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

Land Use Capacity Estimates – 18.41 Parcel as 'Inner Neighborhood' and as RRFF-5

As noted above the Rounsefell property is in Metro's 'Inner Neighborhood' designation. This designation allows a wide range of residential densities more limited by market and site

conditions than regulation. The market rather than site impose limitations on the Rounsefell property. We estimate that the property will be developed within 10 years as middle to upper income value single family residential, similar to present Happy Valley development with a density of 4 – 6 units per acre.

Using the RRFF-5 Clackamas County land use designation in effect at the time of Metro’s UGB action, we assume that the property can be further subdivided into 3 additional 5 acre plus lots. The 18.41-acre size leaves the property about 1.5 acre short of qualifying for 4 lots.

Current Value Estimate of ‘Inner Neighborhood’ Land in Damascus Expansion Area

In order to establish a reasonable range of lot values for developing urban areas with infrastructure and nearby urban services, we evaluated all recent sales (year 2005) of land and lots within the Damascus UGB expansion area. As detailed in relevant data file and confirmed by the Clackamas County Assessor’s office, currently one area is under development. It consists of 38 acres that was included in the expansion area and annexed to Happy Valley. Data indicate that 152 lots of 7,000 – 10,000 square feet have been sold for \$22.6 million for an average of \$149,000 per lot. The lot price range was from \$127,000 to \$175,000. The lots in question are ready to build lots with complete urban services inside the city of Happy Valley. They were also designated ‘Inner Neighborhood’ when included within the UGB and subsequently zoned to R10 by Happy Valley.

Since these lots were located in the urbanized, extreme western portion of the expansion area, we also examined nearby recent developments closer to the Rounsefell property. To establish the range of relevant property values we selected the 27 developed tax lots immediately south of the Rounsefell property. Relevant summary results are in Table 1 below.

Table 1: Summary Property Value Data – Damascus Area ‘Inner Neighborhood’ Designation, SE Donna Circle and 222nd / Hoffmeister Road Intersection

Average Lot Size:	.89 acre
Average Lot Value:	\$138,923
Average Total Property Value:	\$375,235
Number of Sales:	27

When we adjust for lot size, view amenities and the availability of full urban services, the data support a lot value range of \$125,000 – \$175,000 per buildable lot in 2006 dollars for ‘Inner Neighborhood’ type development on the subject property.

Current Value Estimate of “5 Acre Minimum Buildable Lots” in the 1 Mile Buffer Area Outside the UGB

To establish the value range for “20 Acre Minimum” size lots with RRFF-5 zoning within the Clackamas County rural area, we selected all residential properties zoned RRFF-5 with known sale dates within the 1 mile zone subject to the Land Conservation and Development

Commission’s 20-acre minimum lot size with a lot size of 10 to 25 acres. These comprised 36 properties. Their summary statistics are included below in Table 2.

Table 2: Summary Property Value Data – Clackamas County 1 Mile Buffer RRFF-5 Zoning 10 – 25 Acre Lots with Recent Sales

Average Lot Size:	13.8 acres
Median Lot Size:	12.7 acres
Average Acre Value:	\$22,139
Median Acre Value:	\$20,212
Number of Sales:	36

The data suggest that the Rounsefell 2006 raw land value with a 5-acre minimum lot size restriction that limits the property to 3 residential units would be worth \$386,000 to \$423,000.

Alternative Valuation of Rounsefell 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 Rounsefell property actually experienced a loss of value after the Metro regulation.

Accordingly, we have tabulated property value data for the entire expansion area from assessor’s records for the years 2000 through 2006. We present the data for the Rounsefell 18.41-acre property specifically and for all RRFF-5 designated properties within the expansion area between 10 and 25 acres in size. Table 3 below depicts the results by year.

Table 3: Rounsefell Land Value and Expansion Area Land Values 2000 – 2006

Year	Rounsefell Value per Acre	Average All 10 – 25 Acre RRFF-5
2000	367	7,446
2001	9,110	12,588
2002	9,557	13,599
2003	9,652	13,682
2004	10,130	14,502
2005	10,703	15,563
2006	11,563	16,407

Both the Rounsefell property assessor’s market value and the average value of all RRFF-5 tax lots within the study area increase steadily from 2003 through 2006. There is no evidence that Metro’s action of including the property within the Urban Growth Boundary and imposing a temporary minimum lot size of 20 acres has reduced property values.

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

Inner Neighborhood (18.41 acres)	
Low Yield (18.41 x 4):	74 DU (dwelling units)
Low Range Lot Value:	\$125,000
Development Cost per Lot: ⁴	\$50,000
Net Raw Land per Lot:	\$75,000
Total Raw Land Value (74x75,000):	\$5,550,000
Current Market Value for 18.41 acres	
Discounted 10 years:	\$2,957,000
High Yield (18.41 x 6):	110 DU
High Range Lot Value:	\$175,000
Development Cost per Lot:	\$50,000
Net Raw Land per Lot:	\$125,000
Total Raw Land Value (110x125,000):	\$13,750,000
Current Market Value for 18.41 acres	
Discounted 10 years:	\$7,325,000
Rural Residential (RRFF-5) Acre Minimum	
Low Range:	
Land Value (3 DU):	\$386,000
High Range:	
Land Value (3 DU):	\$423,000

We estimate the current raw land value plus residence of the Rounsefell property with ‘Inner Neighborhood’ designation to range from \$2,957,000 to \$7,325,000. The same property used as Rural Residential in a rural setting with a 5-acre minimum would yield \$386,000 to \$423,000. In other words, the most optimistic rural valuation falls well below the most pessimistic ‘Inner Neighborhood’ valuation. Given these results, we would conclude that the ‘Inner Neighborhood’ designation has not reduced the value of the property. Quite the contrary, it has most likely increased the value.

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

⁴ We are assuming the cost of converting raw land to buildable lots will be \$50,000 per lot. This figure includes on site streets, curbs, sidewalks, streetlights, water, sewer, and drainage as well as SDC’s for sewer, water, drainage, parks and transportation.



METRO

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

January 5, 2007

Chris Olson
20500 SE Hwy 212
Boring, Oregon 97009

Re: *Nancy Rounsefell Measure 37 Claim with Metro*

Dear Mr. or Ms. Olson:

Metro has received Nancy Rounsefell's Measure 37 claim and has begun to review it under our claims process. In the course of our initial review, we find an "gap" in the chain of title of Tax Lot 100: it is not evident from the title report that ownership of Tax Lot 100 passed from her deceased husband to Ms. Rounsefell. Please submit additional information to show that ownership has passed to her, and when it passed to her.

Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Richard P. Benner".

Richard P. Benner
Senior Attorney
Office of the Metro Attorney

cc: Karen Hohndel, Metro

RPB:kvw
m:\attorney\confidential\7.2.2.16.51\010507co.001

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That JAMES L. ROUNSEFELL and NANCY ROUNSEFELL, Husband and Wife, hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by The James L. Rounsefell Trust and The Nancy J. Rounsefell Trust See Attached, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereto belonging or pertaining, situated in the County of Clackamas and State of Oregon, described as follows, to-wit:

A tract of land situated in the southwest one-quarter of the northwest one-quarter of Section 8, T. 2 S. R. 3 E. of the W.M. more particularly described as follows:

Beginning at a point in the south line of said legal subdivision which bears East 871.27 feet from the southwest corner of the northwest one-quarter of said Section 8; thence continuing East along the south line of said legal subdivision 208.71 feet; thence North at right angles to said south line 208.71 feet; thence West parallel with the south line of said legal subdivision 208.71 feet; thence South 208.71 feet to the point of beginning, EXCEPTING therefrom that portion lying within roads.

TL 800 only

TRANSAMERICA TITLE INSURANCE Co. 12/14/00 02-41-01

IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances This Warranty deed is being re-recorded to show the correct name of the grantee. Originally recorded May 28, 1992 under #92 32218.

and that grantor will warrant and forever defend the said 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 \$ 0. However, the actual consideration consists of or includes other property or value given or promised which is the whole or part of the consideration (indicate which). (The sentence between the symbols @, if not applicable, shall be deleted. See ORS 91.030.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 22 day of May, 19 92; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto, by order of its board of directors.

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

James L. Rounsefell JAMES L. ROUNSEFELL

Nancy J. Rounsefell NANCY J. ROUNSEFELL

STATE OF OREGON, County of Clackamas, May 22, 1992.

STATE OF OREGON, County of Clackamas, May 22, 1992.

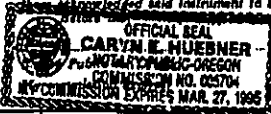
Personally appeared the above named James L. and Nancy J. Rounsefell

Personally appeared and each for himself and not one for the other, did say that the former is the resident and that the latter is the secretary of

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

and that she was authorized to execute the foregoing instrument in the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon My commission expires: 3-27-95



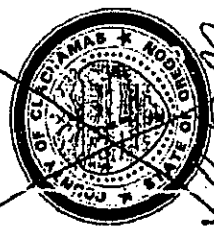
Mr. & Mrs. James L. Rounsefell 22515 S.E. Hoffmeister Rd. Boring, OR 97009

The James L. Rounsefell Trust, The Nancy J. Rounsefell Trust 22515 S.E. Hoffmeister Rd. Boring OR 97009

After recording return to: Michael J. Buroker, Esq. 21902 S.E. Foster Rd. Boring, OR 97009

Send a change to requested all fee statements shall be sent to the following address: Mr. & Mrs. James L. Rounsefell 22515 S.E. Hoffmeister Rd. Boring, OR 97009

92 MAY 28 AM 11:39



92-32218

JAMES L ROUNSEFELL TRUSTEE OF THE JAMES L ROUNSEFELL TRUST AND
NANCY J ROUNSEFELL TRUSTEE OF THE NANCY J ROUNSEFELL TRUST GRANTEE'S

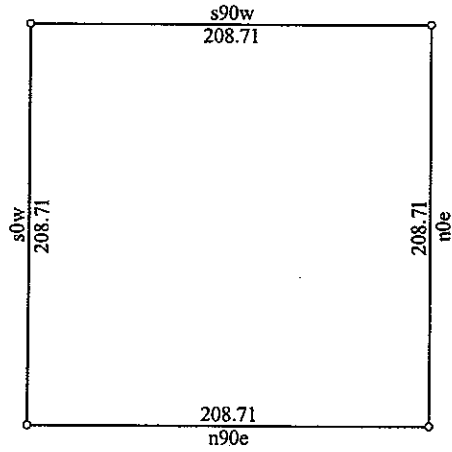
James L. Rounsefell 7-27-95
Nancy J. Rounsefell 1-21-95



Jennifer J. Marks 7-27-95
State of Oregon
County of Multnomah

STATE OF OREGON 95-044817
CLACKAMAS COUNTY
Received and placed in the public
Records of Clackamas County
RECEIPT# AND FEE: 23060 \$30.00
DATE AND TIME: 08/01/95 10:08 AM
JOHN KAUFFMAN, COUNTY CLERK

2



Title: Rounsefell (M37) 95-044817 deed (tl 800)		Date: 01-03-2007
Scale: 1 inch = 100 feet	File: rouns1.des	
Tract 1: 1.000 Acres: 43560 Sq Feet: Closure = n00.0000e 0.00 Feet: Precision >1/999999: Perimeter = 835 Feet		
001=n90e 208.71	003=s90w 208.71	
002=n0e 208.71	004=s0w 208.71	

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That JAMES L. ROUNSEFELL and NANCY J. ROUNSEFELL, Husband and Wife

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by The James L. Rounsefell Trust and The Nancy J. Rounsefell Trust, hereinafter called

the grantor, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Clackamas and State of Oregon, described as follows, to-wit:

See attached Exhibit "A"

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

and that grantor will warrant and forever defend the said 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 \$ 0. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which). (The sentence between the symbols @, if not applicable, should be deleted. See ORS 91.040) In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 22 day of May 19 92; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

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

James L. Rounsefell
JAMES L. ROUNSEFELL
NANCY J. ROUNSEFELL

STATE OF OREGON,
County of Clackamas
May 22 19 92

STATE OF OREGON, County of
Personally appeared

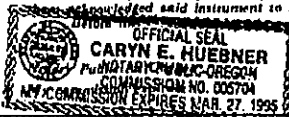
Personally appeared the above named James L. & Nancy J. Rounsefell

and each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of

ment to be their voluntary act and deed.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of us acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon
My commission expires: 3-27-95



Mr. & Mrs. James L. Rounsefell
22515 S.E. Hoffmeister Rd.
Boring, OR 97009
The James L. Rounsefell Trust and
The Nancy J. Rounsefell Trust
22515 S.E. Hoffmeister Rd., Boring
OR 97009

STATE OF OREGON,
County of
I certify that the within instrument was received for record on the day of 19 at o'clock A.M. and recorded in book/roll/volume No. on page of as fee/title/instrument/aerialfilm/exception No. Record of Deeds of said county. Witness my hand and seal of County affixed.

After recording return to:
Michael J. Buroker, Esq.
21902 S.E. Foster Rd.
Boring, OR 97009

NAME ADDRESS ZIP
Mr. & Mrs. James L. Rounsefell
22515 S.E. Hoffmeister Rd.
Boring, OR 97009

By Deputy

92 32217

EXHIBIT "A"

A tract of land situated in the Southwest one-quarter of the Northwest one-quarter of Section 3, Township 2 South, Range 3 East of the Willamette Meridian in the County of Clackamas and State of Oregon, more particularly described as follows:

Commencing at the West one-quarter corner of said Section 3; thence North 89° 22' 46" East along the one-half section line a distance of 671.27 feet; thence North 0° 37' 14" West a distance of 20.00 feet to a point in the North line of Hoffmeister Road, and the point of beginning of the tract herein to be described; thence continuing North 0° 37' 14" West 188.71 feet to an iron rod; thence North 89° 22' 46" East 7.48 feet to an iron rod; thence North 0° 24' 57" West, parallel with the East line of the aforementioned Southwest one-quarter of the Northwest one-quarter, a distance of 1129.70 feet to an iron rod in the North line of said legal subdivision; thence North 89° 05' 25" East along said North line a distance of 644.29 feet to the Northeast corner thereof; thence South 0° 24' 57" East along the East line of said legal subdivision 1321.79 feet to a point in the North line of Hoffmeister Road; thence south 89° 22' 46" West along said North line a distance of 651.08 feet to the point of beginning. Containing an area of 19.55 acres, more or less. -

TL 100
x
800

STATE OF OREGON }
County of Clackamas } ss
I, John Kaufman, County Clerk, for the County of Clackamas, do hereby certify that the instrument of which a true and correct copy is hereon presented for recording in the records of said County is:

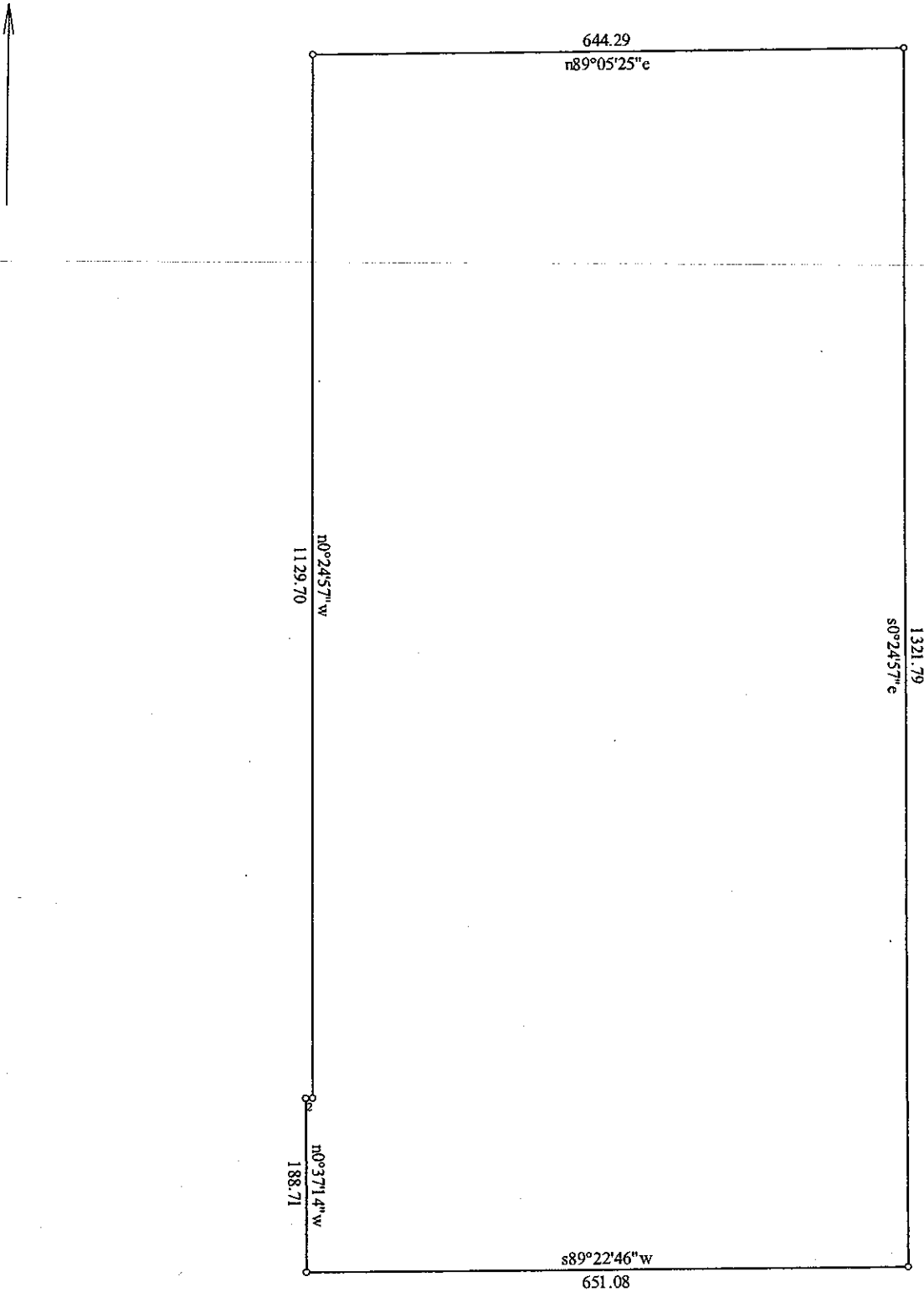
92 JUL 28 11:11:38



Witness my hand and seal of office
John Kaufman
JOHN KAUFMAN
County Clerk

Recording Certificate
CHRISTINE BAY
92 32317

2



Title: Rounsefell (M37) 92-32217 deed descr. (tl 100 & 800)		Date: 01-03-2007
Scale: 1 inch = 175 feet	File: rouns2.des	
Tract 1: 19.556 Acres: 851847 Sq Feet: Closure = n01.2556e 0.13 Feet: Precision = 1/31000: Perimeter = 3943 Feet		
001=n89.2246e 7.48 Attachment 4.27	004=n89.2246e 7.48	007=s0.2457e 1321.79
002=n0.3714w 20	005=n0.2457w 1129.70	008=s89.2246w 651.08
003=n0.3714w 188.71	006=n89.0525e 644.29	

This map was prepared for assessment purposes only.

SW 1/4 NW 1/4 SEC. 3 T.2S. R.3E. W.M.
CLACKAMAS COUNTY
SCALE 1" = 100'

SEE MAP 2 3E 03B8

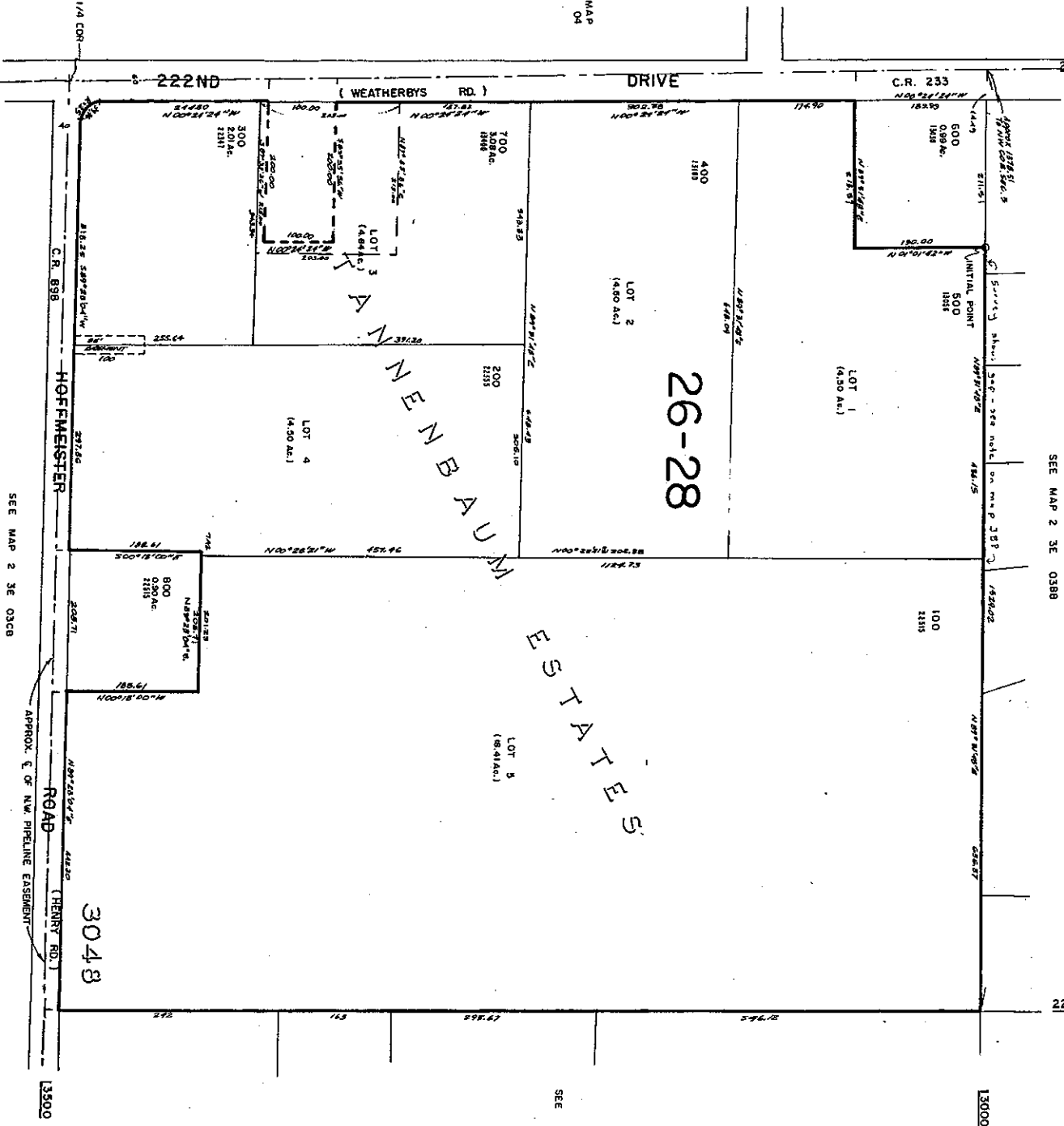
13000

22700

22200

SEE MAP
2 3E 04

SEE MAP 2 3E 03B0



From: Carol Hall
To: Richard Benner
Date: 12/19/2006 9:57:02 AM
Subject: Re: Info

Here you are....

>>> Richard Benner 12/19/06 9:15 AM >>>
12/19

Carol, here are a couple with missing design type info (I'm pretty sure they're inside the UGB):

1. Rounsefell, N: 19.31 acres at 22515 SE Hoffmeister Road, Damascus
Legal: T2S, R3E, Section 3BC, Tax Lots 0100/0800 In the UGB, Inner Neighborhood

2. Schoppert: 7.05 acres at 15252 SE Hwy 224 in Damascus
Legal: T2S, R2E, Section 12, Tax Lots 0900/0980/0990; Section 12D, Tax Lot 00900 All in the UGB,
Inner Neighborhood

Nancy Rounsefell
22515 SE Hoffmeister Rd
Damascus, OR 97089
503-658-2766

DEC - 1 2006

Metro's Chief Operating Officer
Metro
Metro Regional Center
600 NE Grand Ave
Portland, OR 97232

Dear Sir or Madam,

This letter is to inform you that I wish to file a Measure 37 Claim against Metro for the removal or compensation of restrictive zoning enacted upon my property after the date my family or I first became in title.

I am the only claimant. The property is currently held in the "Nancy J. Rounsefell, or James Rounsefell Trust", I am the trustee for both. Regarding the claims information you request to file a claim please find the following:

1. The name, street address and telephone number of the claimant is Nancy J. Rounsefell and noted at the top of this letter.
2. A preliminary title report, a copy of all deeds back to the original donation land claim in the 1860's, and a chain of title letter showing the transfer of ownership throughout the years in the family. The location, street address, and legal description of the property are:

22515 SE Hoffmeister Rd
Damascus, Oregon 97089
2S3E 03bc tax lots 100 & 800 in Clackamas County, Oregon

The original family interest dates back to at least 1918, with my deeded interest first noted in April of 1967.

3. This letter shall constitute my written statement consenting to the filing of this measure 37 claim.

4. The specific land use regulation from Metro that negatively impacts my property is the "Urban Growth Management Functional Plan, and ordinance", and metro's mandate to Clackamas County for implementation of this which is enacted in the County Zoning Ordinance 309.07 **which prohibits** " A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres in size". This ordinance restricts me from dividing my property and selling the newly created lots.

5. At the time my family and I acquired the property there was no zoning in place.

6. Please find a Comparative Market Analysis for my property from the local realtor Burns & Olson Realtors Inc. This states the value with and without the new zoning in place, and my loss of value from the enacted zoning, as determined from comparable sales data.

7. The proposed use of the property is for Residential Development with yet to be determined lot sizes.

8. I, Nancy J. Rounsefell have also filed a similar claim with The City of Damascus, via Clackamas County.

Nancy J. Rounsefell

11/30/06

Nancy J. Rounsefell

date

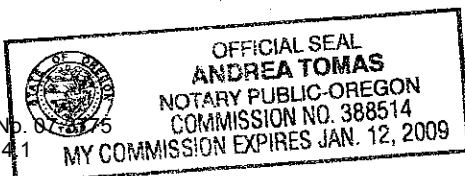
State of Oregon County of Clackamas

Signed or attested before me on November 30th 2006 by _____

Andrea Tomas

Notary Public – State of Oregon

My commission expires: Jan 12, 2009



Nancy Rounsefell
22515 SE Hoffmeister Rd
Damascus, OR 97089
503-658-2766

Metro's Chief Operating Officer
Metro
Metro Regional Center
600 NE Grand Ave
Portland, OR 97232

Dear Sir or Madam,

This letter is to inform you that I wish to appoint Wendy Burns of Burns & Olson Realtors as my principal contact regarding communications of my Measure 37 claim. Please forward all correspondence to:

Wendy Burns
Burns & Olson Realtors Inc.
20500 SE Highway 212
Damascus, OR 97089



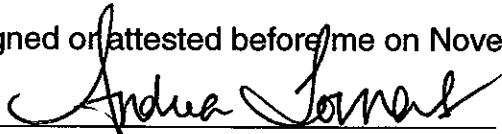
Nancy J. Rounsefell

date

11/30/06

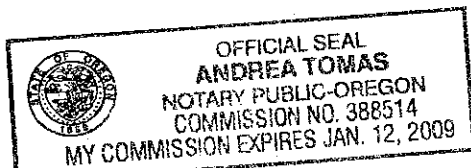
State of Oregon County of Clackamas

Signed or attested before me on November 30th 2006 by _____



Notary Public – State of Oregon

My commission expires: Jan 12, 2009



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 START USE ONLY

FILE NUMBER: _____ DATE RECEIVED: _____

APPLICANT INFORMATION

(PLEASE TYPE OR PRINT IN BLACK INK ONLY)

WHAT IS PROPOSED REMOVAL OF ZONING ORDINANCES RESTRICTING
USES OF THIS PROPERTY AFTER DATE OF OWNERSHIP

LEGAL DESCRIPTION: T2S R3E SECTION 03BC TAX LOT(S) 100

LEGAL DESCRIPTION: R2S R3E SECTION 03BE TAX LOT(S) 800

CONTACT WENDY BURNS

MAILING ADDRESS 20500 SE HIGHWAY 212

CITY DAMASCUS STATE OR ZIP 97089

PHONE 503-658-2602 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)

FOR EACH OWNER WHO IS ALSO A CLAIMANT, PLEASE CHECK THE BOX MARKED "CLAIMANT"

NAME NANCY J. ROBINSON CLAIMANT

SIGNATURE Nancy Robinson

MAILING ADDRESS 22515 SE HOFFMEISTER RD

CITY DAMASCUS STATE OR ZIP 97089

PHONE _____ CELL PHONE _____

NAME _____ CLAIMANT

SIGNATURE _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____ CELL PHONE _____

NAME _____ CLAIMANT

SIGNATURE _____

MAILING ADDRESS _____

CITY _____ STATE _____ ZIP _____

PHONE _____ CELL PHONE _____

MEASURE 37 CLAIM
SUPPLEMENTAL INFORMATION

(Attach additional sheets as needed.)

1. Other persons with an interest in the property (such as lien holders):

Name: WASHINGTON MUTUAL Phone: _____

Address: _____

Type of Interest: MORTGAGE LIEN ON TAX LOT 800 ONLY

Name: OREGON DEPT OF REVENUE Phone: _____

Address: _____

Type of Interest: SENIOR CITIZEN'S DEFERRAL

2. Exact date the claimant acquired an ownership interest in the property? (Please include a copy of the deed or the contract to purchase.) APRIL 18th 1967

3. If the claimant acquired the property from a family member, what is the exact date the family member acquired the property? JULY 1st 1918

What is the relationship of the family member to the claimant (e.g. father, uncle, brother, etc.)? MOTHER IN LAW

If there is more than one event where the property was transferred among family members, such as a series of inheritances, please provide a list of all such events, their dates, and the relationship between the parties. If transfer was by inheritance, please provide the date of death.

SEE CHAIN OF TITLE

4. If a husband and wife are both claimants but acquired a documented ownership interest (e.g. deed, contract to purchase) on different dates, please identify the date of the marriage. _____

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

R30 INITIAL ZONING IN 1973

RRFF-5 ZONING IN 1975/76

6. Please describe how the regulation(s) restricts the use of the property and reduces the property's fair market value.

CURRENT RRPF & ZONING LIMITS NEW LOTS TO A MINIMUM OF 20 ACRE SIZE PROHIBITING THE SALE OR DIVISION OF THE PROPERTY IN SMALLER LOT SIZES

7. How much has the fair market value of your property been reduced by enactment or enforcement of the regulation(s)? \$ 2,219,250.00

8. Are you requesting compensation, or removal of the regulation(s), modification of the regulation(s), or a decision not to apply the regulation(s)? (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.)

COMPENSATION OR REMOVAL OF ALL ZONING REGULATIONS BACK TO UNZONED STATUS

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

RESIDENTIAL DWELLING UNITS, UNSPECIFIED LOT SIZE

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

- a. If the property is owned by a trust (or an LLC, corporation, partnership, etc.) but the claimant is an individual rather than the trust, provide documents sufficient to establish the claimant's relationship to the trust (e.g. trustee, beneficiary) and the date that the relationship originated. This information is also required if the claim relies upon an ownership history that includes previous ownership by a trust.
- b. An appraisal that meets the requirements of the county's Measure 37 Claims Process Ordinance; or other evidence demonstrating that there has been a reduction in the fair market value of the property (e.g. data on sales of comparable properties in the area or fair market values established by the Department of Assessment and Taxation for comparable properties in the area);
- c. 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;
- d. 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;
- e. List of all compensation claims, or development or permit applications previously filed with any regulatory body relating to the property, and any enforcement actions taken by any governmental body, regarding the use restriction identified in Question 5, above.
- f. Claims processing fee - \$750.00



11-29-06

Mrs. Nancy Rounsefell
22515 SE Hoffmeister Rd
Damascus, OR 97089

Dear Mrs. Rounsefell,

I have completed the market analysis for your property in Damascus, Clackamas County, known by the legal description of 2S-3E-03BC tax lots 100 & 800, totaling 19.31 acres. Tax lot 800 has a residence, and tax lot 100 is vacant ground. The property is zoned RRFF-5 which is normally a five acre minimum lot size, but since the property is in the City of Damascus, and the Urban Growth Boundary, newly created lots are limited in size to a minimum of twenty acres. For purposes of sale or market analysis you have two salable lots, tax lot 800 which is .90 acre, and tax lot 100 which is 18.41 acres.

2S3E03BC Tax lot 800, zoned RRFF-5, Damascus, Oregon
.90 acre, single family home valued at \$75,000, one building site
Market value of the lot is \$250,000, Total Value tax lot 800 is \$325,000

2S3E03BC Tax lot 100, zoned RRFF-5, Damascus, Oregon
18.41 acres, vacant land, valued at \$75,000 per acre, total value of \$1,380,750

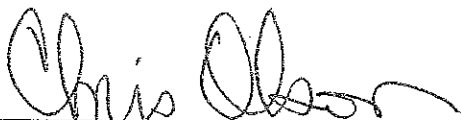
This slightly sloped property affords an exception view of Mt Hood and the valley looking East. Information provided from Metro's web site designates this property as "not affected or allow development" with no exceptions for habitat values, wetlands, flood areas, or steep slopes. Access to the parcels is from Hoffmeister Rd. Domestic water service is provided by Sunrise Water District.

Burns & Olson Realtors Inc.
20500 SE Hwy 212
Boring, Oregon 97009
Office: 503-658-2600

Page 2 of Rounsefell Market Analysis

With the great views and level ground of tax lot 100 the highest and best use is for residential development. Approved Measure 37 waivers would return the zoning to the time of deed transfer for the current deed holders which was before initial zoning. This would allow one or multiple dwelling units per acre of land. Since sewer service is not yet available, homes would have to be built on lots large enough to support a septic system which is usually one acre. Valuation with zoning waivers on tax lot 100 will be as eighteen buildable lots of one acre in size. These building lots would have a highly desirable rural flavor with close proximity to services available in Gresham and Damascus. The Current market value of buildable one acre lots in this area is \$250,000. Infrastructure for these lots is available except for sewer. Area soils support septic system use with standard systems.

Using the valuation of a one acre building lot after development of \$250,000 results in \$4,500,000 for the eighteen lots. Costs associated with development of the subdivision for engineering, utilities, permits, roads, water, etc., should be no more than 20% of the sales price for each lot, a total of \$900,000. This results in a net value of \$3,600,000 for the eighteen finished lots. Subtracting the \$1,380,750 valuation of the property without the M-37 waivers, the net loss in value to tax lot 100 due to zoning restrictions is \$2,219,250. Tax lot 800 suffers no loss of value since it's already a legal lot of record, almost an acre in size, so the total loss is the \$2,219,250 due to zoning restrictions.



Chris Olson, Burns & Olson Realtors Inc

Burns & Olson Realtors Inc.
20500 SE Hwy 212
Boring, Oregon 97009
Office: 503-658-2600



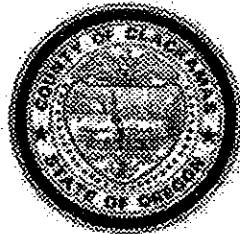
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Property Search > Search Results > Property Summary



Clackamas County
 Department of Assessment and Taxation
 168 Warner Milne Rd
 Oregon City, Oregon 97045
 503-655-8671

[Printable Version](#)

Property Account Summary

Parcel Number	01567548	Situs Address	22515 SE HOFFMEISTER RD , BORING, OR 97009
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General Information	
Alternate Property #	23E03BC00100
Property Description	3048 TANNENBAUM EST LT 5
Property Category	Land &/or Buildings
Status	Active, Locally Assessed, Use Assessed
Tax Code Area	026-009
Remarks	

Tax Rate	
Description	Rate
Taxable Fire District Value	2.3771
Taxable Value	10.8751

Property Characteristics	
Use Assessed	Potential Additional Tax Liability
Neighborhood	16064: Gresham School Dist 26 all other
Land Class Category	540: Non EFU farmland vacant
Change property ratio	5XX: 77.70%

Related Properties	
No Values Found	

Parties			
Role	Percent	Name	Address
Taxpayer	100.00	ROUNSEFELL NANCY J TRUSTEE	22515 SE HOFFMEISTER RD, BORING, OR 97009 USA
Owner	100.00	ROUNSEFELL NANCY J TRUSTEE	22515 SE HOFFMEISTER RD, BORING, OR 97009 USA

Property Values					
Description	2004	2003	2002	2001	2000
AVR Total	14,433	14,028	6,866	7,014	7,110
Exempt					
TVR Total	14,433	14,028	6,866	7,014	7,110
Real Mkt Land	204,336	193,389	184,267	182,448	173,920
Real Mkt Bldg	0	0	0	0	0
Real Mkt Total	204,336	193,389	184,267	182,448	173,920
M5 Mkt Land	0	0	0	0	0
M5 SAV	30,523	29,364	6,866	7,014	7,110
M5 Mkt Bldg	0	0	0	0	0

Resolution No. 07-3775
 Attachment 4.1

SAVL (MAV Use Portion)	14,433	14,028	6,866	7,014	7,110
MAV (Market Portion)	0	0	0	0	0
Mkt Exception	0	0	0	0	0
AV Exception	0	0	0	0	0

Active Exemptions

No Exemptions Found

Events

Effective Date	Entry Date-Time	Type	Remarks
2005/03/10	2005/03/10 09:21	Annexation Completed For Property	Form City of Damascus, Ord 2004-162 PT21-added to annexation by batch process 8,150. by JENMAYO
1999/07/01	1999/07/01 12:00	Ownership at Conversion	Warranty Deed: 92-32217, 5/1/92, \$ 0

As Of Date: 9/9/2005

Recalculate

Taxes

Tax Year	Category	TCA/District	Charged	Minimum	Balance Due	Due Date
1993	Property Tax Principal	026-009	81.69	0.00	0.00	1993/11/15
1994	Property Tax Principal	026-009	93.64	0.00	0.00	1994/11/15
1995	Property Tax Principal	026-009	101.85	0.00	0.00	1995/11/15
1996	Property Tax Principal	026-009	115.77	0.00	0.00	1996/11/15
1997	Property Tax Principal	026-009	84.72	0.00	0.00	1997/11/15
1998	Property Tax Principal	026-009	89.02	0.00	0.00	1998/11/15
1998	Property Tax Interest	026-009	1.19	0.00	0.00	1998/11/15
1999	Property Tax Principal	026-009	90.46	0.00	0.00	1999/11/15
1999	Property Tax Interest	026-009	3.62	0.00	0.00	2000/05/15
2000	Property Tax Principal	026-009	91.39	0.00	0.00	2000/11/15
2001	Property Tax Principal	026-009	92.40	0.00	0.00	2001/11/15
2001	Property Tax Interest	026-009	35.73	0.00	0.00	2004/07/15
2002	Property Tax Principal	026-009	90.62	0.00	0.00	2002/11/15
2002	Property Tax Interest	026-009	35.04	0.00	0.00	2005/07/15
2003	Property Tax Principal	026-009	190.89	190.89	190.89	2003/11/15
2003	Property Tax Interest	026-009	48.35	48.35	48.35	2005/09/09
2004	Property Tax Principal	026-009	191.27	191.27	191.27	2004/11/15
2004	Property Tax Interest	026-009	17.85	17.85	17.85	2005/09/09
TOTAL Due as of 2005/09/09			1,455.50	448.36	448.36	

Receipts

Date	Receipt	Amount Applied	Amount Due	Tendered	Change
2005/07/18 10:21	1905716	\$125.66	\$563.84	\$125.66	\$0.00
2004/07/19 11:00	1721687	\$128.13	\$442.91	\$128.13	\$0.00
2000/11/16 12:00	1081556	\$91.39	\$91.39	\$88.65	\$0.00
2000/05/19 12:00	984521	\$94.08	\$94.08	\$94.08	\$0.00
1998/11/15 12:00	395025	\$90.21	\$90.21	\$90.21	\$0.00
1997/11/15 12:00	395024	\$84.72	\$84.72	\$82.18	\$0.00
1996/11/15 12:00	395023	\$115.77	\$115.77	\$112.30	\$0.00
1995/11/15 12:00	395022	\$101.85	\$101.85	\$98.79	\$0.00
1994/11/15 12:00	395021	\$93.64	\$93.64	\$90.83	\$0.00
1993/11/15 12:00	395020	\$81.69	\$81.69	\$79.23	\$0.00

Sales History

Transfer Date	Recording Number	Sale Amount	Deed Type	Grantee	Grantor
05/01/1992	1992-032217		0		

Property Details

Living Area Sq Ft	Manf Struct Size	Year Built	Improvement Grade	Stories	Bedrooms	Full Baths	Half Baths
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Resolution No. 07-3775
Attachment 4.1

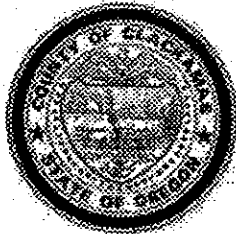


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Clackamas County
 Department of Assessment and Taxation
 168 Warner Milne Rd
 Oregon City, Oregon 97045
 503-655-8671

[Printable Version](#)

Property Account Summary

Parcel Number	00603467	Situs Address	22515 SE HOFFMEISTER RD , BORING, OR 97009
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General Information

Alternate Property #	23E03BC00800
Property Description	Section 03 Township 2S Range 3E Quarter BC TAX LOT 00800
Property Category	Land &/or Buildings
Status	Active, Locally Assessed
Tax Code Area	026-009
Remarks	

Tax Rate

Description	Rate
Taxable Fire District Value	2.3771
Taxable Value	10.8751

Property Characteristics

Disabled or Senior Deferral	DOR # 8493039949 490 04 6 1
Neighborhood	16061: Gresham School Dist 26 100, 101
Land Class Category	101: Residential land improved
Building Class Category	14 : Single family res, class 4
Year Built	1966
Acreage	0.9
Change property ratio	1XX: 73.80%

Related Properties

No Values Found

Parties

Role	Percent	Name	Address
Veteran	100.00	ROUNSEFELL NANCY J TRUSTEE	22515 SE HOFFMEISTER RD, BORING, OR 97009 USA
Taxpayer	100.00	ROUNSEFELL NANCY J TRUSTEE	22515 SE HOFFMEISTER RD, BORING, OR 97009 USA
Owner	100.00	ROUNSEFELL NANCY J TRUSTEE	22515 SE HOFFMEISTER RD, BORING, OR 97009 USA
Lienholder	0.00	FARMERS HOME ADMIN USA	RURAL DEVELOPMENT 3867 WOLVERINE ST NE BLDG F #19, SALEM, OR 97305

Property Values

Description	2004	2003	2002	2001	2000
AVR Total	130,662	126,856	123,161	119,574	116,091

Resolution No. 07-3775
 Attachment 4.1

Exempt	10,160	9,860	9,570	9,290	9,013
TVR Total	120,502	116,996	113,591	110,284	107,078
Real Mkt Land	104,287	98,700	94,044	93,116	88,730
Real Mkt Bldg	82,730	79,440	77,270	67,630	73,060
Real Mkt Total	187,017	178,140	171,314	160,746	161,790
M5 Mkt Land	104,287	98,700	94,044	93,116	88,730
M5 SAV	0	0	0	0	0
M5 Mkt Bldg	82,730	79,440	77,270	67,630	73,060
SAVL (MAV Use Portion)					
MAV (Market Portion)	130,662	126,856	123,161	119,574	116,091
Mkt Exception	0	0	0	0	0
AV Exception	0	0	0	0	0

Active Exemptions

Veteran

Events

Effective Date	Entry Date-Time	Type	Remarks
2005/03/10	2005/03/10 09:21	Annexation Completed For Property	Form City of Damascus, Ord 2004-162 PT21-added to annexation by batch process 8,150. by JENMAYO
1999/07/01	1999/07/01 12:00	Ownership at Conversion	Warranty Deed: 95-44817, 7/1/95, \$ 0

As Of Date: 9/9/2005

Recalculate

Taxes

Tax Year	Category	TCA/District	Charged	Minimum	Balance Due	Due Date
1993	Property Tax Principal	026-009	1,546.32	0.00	0.00	1993/11/15
1994	Property Tax Principal	026-009	1,437.47	0.00	0.00	1994/11/15
1995	Property Tax Principal	026-009	1,239.55	0.00	0.00	1995/11/15
1996	Property Tax Principal	026-009	1,691.77	0.00	0.00	1996/11/15
1997	Property Tax Principal	026-009	1,418.17	0.00	0.00	1997/11/15
1998	Property Tax Principal	026-009	1,479.08	0.00	0.00	1998/11/15
1998	Property Tax Interest	026-009	98.57	0.00	0.00	1998/11/15
1999	Property Tax Principal	026-009	1,390.08	0.00	0.00	1999/11/15
1999	Property Tax Interest	026-009	55.60	0.00	0.00	2000/05/15
2000	Property Tax Principal	026-009	1,426.70	0.00	0.00	2000/11/15
2001	Property Tax Principal	026-009	1,504.44	1,504.44	1,504.44	2001/11/15
2001	Property Tax Interest	026-009	862.55	862.55	862.55	2005/09/09
2002	Property Tax Principal	026-009	1,552.14	1,552.14	1,552.14	2002/11/15
2002	Property Tax Interest	026-009	641.56	641.56	641.56	2005/09/09
2003	Property Tax Principal	026-009	1,591.99	1,591.99	1,591.99	2003/11/15
2003	Property Tax Interest	026-009	403.30	403.30	403.30	2005/09/09
2004	Property Tax Principal	026-009	1,596.92	0.00	0.00	2004/11/15
TOTAL Due as of 2005/09/09			19,936.21	6,555.98	6,555.98	

Receipts

Date	Receipt	Amount Applied	Amount Due	Tendered	Change
2004/11/17 00:00	1838307	\$1,596.92	\$7,533.08	\$1,549.01	\$0.00
2000/11/16 12:00	1081555	\$1,426.70	\$1,426.70	\$1,383.90	\$0.00
2000/05/19 12:00	984520	\$1,445.68	\$1,445.68	\$1,445.68	\$0.00
1998/11/15 12:00	395067	\$1,577.65	\$1,577.65	\$1,577.65	\$0.00
1997/11/15 12:00	395066	\$1,418.17	\$1,418.17	\$1,375.62	\$0.00
1996/11/15 12:00	395065	\$1,691.77	\$1,691.77	\$1,641.02	\$0.00
1995/11/15 12:00	395064	\$1,239.55	\$1,239.55	\$1,202.36	\$0.00
1994/11/15 12:00	395063	\$1,437.47	\$1,437.47	\$1,394.35	\$0.00
1993/11/15 12:00	395062	\$1,546.32	\$1,546.32	\$1,499.93	\$0.00

Sales History

Transfer Date	Recording Number	Sale Amount	Deed Type	Grantee	Grantor
07/01/1995	1995-044817	0			
05/01/1992	1992-032217	0			

Property Details

Living Area Sq Ft	Manf Struct Size	Year Built	Improvement Grade	Stories	Bedrooms	Full Baths	Half Baths
1968	0 X 0	1966	45	1.0	4	1	1

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Rounsefell Property Chain of Title

2S3E 03BC Tax lots 100 & 800

An original donation land claim in the 1860s from President Andrew Johnson the family ownership may well extend back to that date. The last few generations of the family date the ownership of the property back to 1918. This information is presented with the preliminary title report and attached deeds.

October 10th, 1918

James & Ruth Wilson as owners. James passes shortly thereafter leaving Ruth the sole owner.

In the year 1928

Ruth Wilson marries Harry Rounsefell, they have sons Robert & James. James is born in 1928.

March 17th 1961

Ruth Deeds an undivided ½ interest in the property to her husband Harry Rounsefell. Tax lots 100 & 800 are part of a larger parcel owned by Ruth (Wilson) Rounsefell.

May 16th 1966

Harry & Ruth Rounsefell deed to their son James Rounsefell a one acre parcel, tax lot 800, from their property.

December 24th 1966

James Rounsefell marries Nancy.

April 18th 1967

James Rounsefell deeds to Nancy Rounsefell one half interest in tax lot 800 to create an estate in entirety.

December 25th 1974

Harry and Ruth Rounsefell deed to James Rounsefell tax lot 100.

May 22nd 1992

James Rounsefell and Nancy Rounsefell, husband and wife deed their property to a Revocable Trust in their names.

July 17th 1996

James & Nancy Rounsefell trusts are amended.

January 25th 1999

Jim Rounsefell pass, the assets of his trust become part of the Nancy Rounsefell revocable living trust.

CERTIFICATION OF VITAL RECORD

**OREGON DEPARTMENT OF HUMAN RESOURCES
HEALTH DIVISION
CENTER FOR HEALTH STATISTICS
CERTIFICATE OF DEATH**

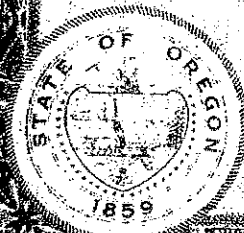
263661
FD-203 NO
00197
Local File Number

State File Number

1. DECEDENT'S NAME First Middle Last Jetties Laurence ROUNSEFELL		2. SEX M	3. DATE OF DEATH (Month, Day, Year) January 23, 1999
4. SOCIAL SECURITY NUMBER 544-28-3436		5a. AGE Last Birthday (Year) 70	5b. Under 1 Year 5c. Under 1 Day 5d. Under 1 Hour
6. BIRTH PLACE (City and State or Foreign Country) Corvallis, OR		7. DATE OF BIRTH (Month, Day, Year) August 9, 1928	
8. WAS DECEDENT EVER IN U.S. ARMED FORCES? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
9a. FACILITY NAME (If not institution give street and number) 22515 SE Hoffmeister Rd		9b. PLACE OF DEATH (Check only one) <input type="checkbox"/> Nursing Home <input checked="" type="checkbox"/> Decedent's Home <input type="checkbox"/> Other (Specify)	
9c. CITY, TOWN, OR LOCATION OF DEATH Boring		9d. COUNTY OF DEATH Clackamas	
10a. DECEDENT'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired) Owner/Operator		10b. KIND OF BUSINESS INDUSTRY Christmas Tree Farm	
11a. RESIDENCE - STREET Clackamas		11b. CITY, TOWN OR LOCATION Boring	
11c. ZIP CODE 97009		11d. STREET AND NUMBER 22515 SE Hoffmeister Rd	
12. INSIDE CITY LIMITS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		13. WAS DECEDENT IN FOREIGN COUNTRY (Specify No or Yes - If yes, specify Country) <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes	
14. FATHER - NAME First Middle Last Harry Nugent Rounsefell		15. BROTHER - NAME First Middle Last Ruth M. Ingle	
16. MARRITAL STATUS - Married, Never Married, Widowed, Divorced (Specify) Married		17. SPOUSE (Name and Maiden Name) Nancy Rounsefell - Wife	
18. RACE (American Indian, Black, White, etc. Specify) White		19. INFORMANT - NAME and relationship to decedent Nancy Rounsefell - Wife	
20. METHOD OF DISPOSITION <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Removal from state <input type="checkbox"/> Donation <input type="checkbox"/> Other (Specify)		21. PLACE OF DISPOSITION (Name of cemetery, crematory or other place) Willamette National Cemetery	
22. SIGNATURE OF OREGON FUNERAL SERVICE LICENSEE OR PERSON MAKING AS SUCH <i>John White</i>		23. OREGON LICENSE NO. (If Licensee) AF31644	
24. DATE FILED (Month, Day, Year) FEB 9 1999		25. NAME, ADDRESS AND ZIP OF FACILITY Bateman Carroll Funeral Chapel	
26. REGISTRAR'S SIGNATURE <i>Myrtle A. Thompson</i>		27. NAME, ADDRESS AND ZIP OF FACILITY 320 W. Powell Blvd. Gresham, OR 97030	

10. TO BE COMPLETED BY CERTIFYING PHYSICIAN			
27. TIME OF DEATH 1230		28. WAS MEDICAL EXAMINER NOTIFIED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29. To the best of my knowledge, death occurred at the time, date, place and due to the cause(s) and manner stated (Signature) <i>[Signature]</i>		31. TIME OF DEATH 32. DATE PRONOUNCED DEAD (Month, Day, Year)	
30. DATE SIGNED (Month, Day, Year) 1/29/99		33. DATE SIGNED (Month, Day, Year)	
34. NAME, TITLE, ADDRESS AND ZIP OF CERTIFYING PHYSICIAN (Type or Print) Randall Smith M.D. 2020 SE 182nd Portland OR 97233			
35. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print)			
36. PART I (a) Alzheimer dementia DUE TO, OR AS A CONSEQUENCE OF		Interval between onset and death 3 years	
(b) _____		Interval between onset and death	
(c) _____		Interval between onset and death	
37. OTHER SIGNIFICANT CONDITIONS Conditions contributing to death but not resulting from underlying cause given in PART I hip fracture, chronic malnutrition			
38. Did toxic use (alcohol, etc.) contribute to the death? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown		39. Did the decedent have any pre-existing conditions? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown	
40. MANNER OF DEATH <input type="checkbox"/> Natural <input type="checkbox"/> Poisoning <input type="checkbox"/> Accidental <input type="checkbox"/> Injury, self-inflicted <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Unknown <input type="checkbox"/> Other		41. DATE OF INJURY (Month, Day, Year)	
42. TIME OF INJURY		43. INJURY AT WORK? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
44. DESCRIBE HOW INJURY OCCURRED		45. LOCATION (Street and number or Rural Route Number, City or town, State)	

**FOR VETERANS
ADMINISTRATION
USE ONLY**



THIS IS A TRUE AND EXACT REPRODUCTION OF THE DOCUMENT OFFICIALLY REGISTERED AT THE OFFICE OF THE CLACKAMAS COUNTY REGISTRAR.

DATE ISSUED: **FEB 9 1999**

Thomas M. Roach
THOMAS M. ROACH
COUNTY REGISTRAR
CLACKAMAS COUNTY, OREGON

THIS COPY NOT VALID WITHOUT STATISTICAL AND BUREAU

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

**COMPLETE RESTATEMENT OF LIVING TRUST
BY AMENDMENT**

**AMENDMENT NO. 2 AND RESTATEMENT OF
TRUST DATED May 22, 1992**

I, **JAMES L. ROUNSEFELL**, am the Trustor under a Trust Agreement dated May 22, 1992, wherein I am designated as Trustee. I hereby amend the Trust Agreement by substituting therefor the following:

REVOCABLE LIVING TRUST AGREEMENT

DATED: May 22, 1992

BETWEEN: JAMES L. ROUNSEFELL, as Trustor,

AND: JAMES L. ROUNSEFELL, as Trustee, and NANCY J. ROUNSEFELL, as Successor Trustee, and EUGENE C. ZINTER, as Alternate Successor Trustee and CATHRYN A. GEREAX as Second Alternate Successor Trustee.

ARTICLE VIII

SPECIFIC DISTRIBUTIONS FROM TRUST

After my death:

A. To Spouse, if Surviving. Should my spouse survive me, and if included as property of this Trust, my Successor Trustee shall distribute to my spouse, all of my interest in all household furniture and furnishings, books, apparel, art objects, collections, jewelry and similar personal effects, sporting and recreational equipment; all other tangible property for personal use; all other like contents of my home and any vacation properties that I may own or reside in on the date of my death; animals; any motor vehicles that I may own on the date of my death; and any unexpired insurance on all such property, as a separate trust, referred to as the Marital Trust.

B. Otherwise, to Children. If my spouse does not survive me as Successor Trustee, than my Alternate Successor Trustee, who shall be Eugene C. Zinter, shall distribute the property described above, as follows: 50% to EUGENE C. ZINTER and 50% to JEFF and ARLENE ROUNSEFELL. Should EUGENE C. ZINTER predecease me, then my Alternate Successor Trustee shall distribute his share to CATHRYN A. GEREAX. Should CATHRYN A. GEREAX predecease me, then my Alternate Successor Trustee shall distribute her share to DAVID N. ZINTER.

SCHEDULE "A"
TO
TRUST AGREEMENT

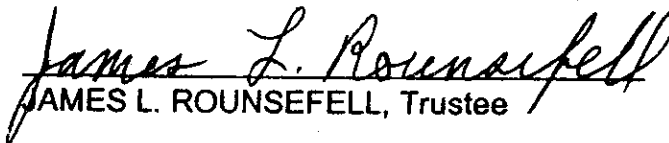
There exists a Trust Agreement dated this 22 day of May, 1992, by and between JAMES L. ROUNSEFELL as Grantor and JAMES L. ROUNSEFELL as Trustee, and NANCY J. ROUNSEFELL as Successor Trustee. Said Trust Agreement will be referred to in this Schedule as the "Trust" and the Trustee and any successor appointed in accordance with the applicable provisions of the Trust being referred to in this Schedule as the "Trustee".

The undersigned hereby transfers, sets over, conveys and assigns to the Trustee all right, title and interest of the undersigned in and to all assets owned by the undersigned, whether or not identified on any Exhibit attached hereto.

The undersigned retains registered ownership in the name of the undersigned as nominee for the Trustee, whether or not the undersigned has delivered possession of the assets or the certificate or other documents evidencing ownership thereof.

In the event of the death of the undersigned, and in the event of the incapacity of the undersigned, the Trustee is authorized to take possession of the assets, including certificates or other documents representing same (where possession has not previously been delivered) and the Trustee is authorized to attach any stock powers executed in blank by the undersigned, record any deeds, deliver or otherwise effectuate any assignments, for the purpose of perfecting record title in the Trustee and terminating the undersigned as nominee. In the event the undersigned does not execute sufficient stock powers in blank or does not execute deeds, assignments, or other instruments of transfer, the undersigned confirms the appointment of the Trustee as attorney-in-fact of the undersigned to execute appropriate powers and any other instruments of transfer or assignment to accomplish perfection of record title in the Trustee.

IN WITNESS WHEREOF, the undersigned has executed this instrument immediately following execution of the Trust Agreement, for the purpose of identifying the initial property transferred to the Trustee and for the purpose of accomplishing and consummating the transfer of such property to the extent that such transfer is not accomplished by other instruments executed by the undersigned simultaneously herewith or subsequent hereto.


JAMES L. ROUNSEFELL, Trustee

PERSONALLY BEFORE ME appeared JAMES L. ROUNSEFELL, and
acknowledged the foregoing to be his voluntary act and deed.

Caryn E. Huebner

NOTARY PUBLIC FOR OREGON

My Commission Expires: 3-27-95

C:\FILES\ROUNSEFE.LL\JAMESTRS



C. Lapse. Notwithstanding anything to the contrary herein, if any gift made hereunder would have the effect of rendering a beneficiary ineligible or disqualified from public support benefits, such as by way of example and not limitation, Medicaid and Supplemental Security Income (SSI) benefits, then such gift shall lapse and shall pass instead as if such beneficiary had predeceased me. Such determination shall be made by my Trustee in the sole discretion of my Trustee and, if made in good faith, shall incur no liability therefor.

ARTICLE IX

DISTRIBUTION OF RESIDUE OF TRUST ESTATE

The residue of the trust estate shall be distributed and allocated as follows:

A. To Spouse, if Surviving. Should my spouse survive me, and, if included as property of this Trust, my Successor Trustee shall distribute to my spouse, all of the rest, residue and remainder of my Trust Estate, as a separate trust, and shall be included in the Marital Trust, as established in Articles VIII A. and X.

B. Otherwise, to Children. If my spouse does not survive me, my Alternate Successor Trustee shall distribute the property described above, as follows: 50% to EUGENE C. ZINTER and 50% to JEFF and ARLENE ROUNSEFELL. Should EUGENE C. ZINTER predecease me, then my Alternate Successor Trustee shall distribute his share to CATHRYN A. GERAUX. Should CATHRYN A. GERAUX predecease me, then my Alternate Successor Trustee shall distribute her share to DAVID N. ZINTER.

ARTICLE X

MARITAL TRUST

The Marital Trust, as established above, shall be administered and distributed as follows:

A. Income for Spouse. The net income of the Marital Trust shall be paid in quarterly or more frequent installments to or for the benefit of my spouse for my spouse's lifetime.

B. Principal for Spouse. My Trustee also shall pay to or for the benefit of my spouse such portions of the principal of the Marital Trust as my Successor Trustee may determine to be necessary for my spouse's health, maintenance, support and education to enable my spouse to maintain the standard of living that my spouse maintained in my lifetime.

C. Distribution of Income and Principal upon Death of Spouse. Upon the death of my spouse, the remaining property of the Marital Trust, including principal and income shall be distributed as provided for in Articles VIII(B) and IX(B), above.

Executed this 17 day of July, 1996.

James L. Rounsefell
JAMES L. ROUNSEFELL, Trustee
Social Security No. 544-32-3456

James L. Rounsefell
JAMES L. ROUNSEFELL, Trustee

Nancy Rounsefell
NANCY J. ROUNSEFELL, Successor
Trustee

Eugene C. Zinter
EUGENE C. ZINTER, Alternate Successor
Trustee

Cathryn A. Gereaux
CATHRYN A. GEREUX, Second Alternate
Successor Trustee

COPY

Last Will and Testament OF

JAMES L. ROUNSEFELL

I, JAMES L. ROUNSEFELL, of Boring, Oregon, do make, publish and declare this my last will, hereby revoking all former wills and codicils.

ARTICLE I

FAMILY

I am the husband of NANCY J. ROUNSEFELL, and the father of JEFFREY L. ROUNSEFELL, born April 6, 1956. I am the step-father of EUGENE C. ZINTER, born October 2, 1952; CATHRYN A. GERAUX, born January 1, 1957; DAVID N. ZINTER, born July 9, 1958; CAROLYN HART, born November 19, 1948; and JACK V. ROUNSEFELL, born November 4, 1949. I am the step-grandfather of COQUILLE MARIE BLANCHARD, born February 22, 1986.

As used in this will, "children" shall mean my children named above and any other children born to or adopted by me hereafter either before or after my death.

ARTICLE II

APPOINTMENT OF FIDUCIARIES

A. Personal Representative. I nominate my spouse, NANCY J. ROUNSEFELL, to serve as Personal Representative of my estate and of this my last will. If she cannot serve or continue to serve, I nominate EUGENE C. ZINTER as Personal Representative of my estate.

B. Waiver of Bond. To the extent allowed by law, I direct that any of the fiduciaries named above, or their alternates or successors, shall be entitled to serve without bond or other undertaking and without reporting or accounting to any court.

MICHAEL J. BURROKER
ATTORNEY AT LAW
21902 SE TIER ROAD
BORING, OREGON 97009

ARTICLE III

PAYMENT OF DEBTS AND EXPENSES

I direct the payment out of my estate of all my just debts allowed in the course of administration, the expenses of my last illness and funeral and the expenses of the administration of my estate.

ARTICLE IV

HOUSEHOLD FURNISHINGS AND OTHER PERSONAL PROPERTY

A. If my spouse survives me, I give to my spouse all my interest in household furniture and furnishings, books, apparel, art objects, collections, jewelry and similar personal effects; sporting and recreational equipment; all other tangible property for personal use; all other like contents of my home and any vacation property that I may own or reside in on the date of my death; all animals; any motor vehicles that I may own on the date of my death; and any unexpired insurance on all such property, to my successor Trustee, NANCY J. ROUNSEFELL, to be added to and become a part of that certain Trust dated May 22, 1992, between me as Trustor and NANCY J. ROUNSEFELL as successor Trustee.

B. If my spouse does not survive me, I give the property described in this Article to my children who survive me, to be divided among them as they shall agree, or in the absence of such agreement, as my Personal Representative shall determine, which determination shall be conclusive, to my successor Trustee, NANCY J. ROUNSEFELL, to be added to and become a part of that certain Trust dated May 22, 1992, between me as Trustor and NANCY J. ROUNSEFELL as successor Trustee.

ARTICLE V

RESIDUE OF ESTATE

I give the residue of my estate to my successor Trustee, NANCY J. ROUNSEFELL, to be added to and become a part of that certain trust dated May 22, 1992, between me as Trustor and NANCY J. ROUNSEFELL as successor Trustee, to be administered and disposed of in accordance with the terms, conditions

and fiduciary powers of said trust, including any amendments made thereto before my death (whether made before or after the execution of this Will). If for any reason such distribution of residue of my estate is ineffective, then I give the residue to my successor Trustee, to be held in a testamentary trust in accordance with the terms, conditions and fiduciary powers of the trust described above, including any amendments made thereto before my death (whether made before or after the execution of this Will), which provisions are hereby incorporated by reference. If in accordance with the provisions of the trust any portion thereof is distributable free of the trust, then such portion shall be paid to the recipient entitled thereto directly by my Personal Representative.

ARTICLE VI

SURVIVORSHIP

If any beneficiary named or described in this will dies within four (4) months after my death, all the provisions in this will for the benefit of such deceased beneficiary shall lapse, and this will shall be construed as though the fact were that he or she predeceased me.

ARTICLE VII

TAXES

All estate, inheritance, succession or other transfer taxes, including any interest and penalties thereon, that become payable by reason of my death with respect to property passing under this will shall be paid out of the residue of my estate, without reimbursement from the recipients of such property and without apportionment. All taxes attributable to property not passing under this will shall be apportioned in the manner provided by law.

If there is in existence at my death any trust created by me during my lifetime and if my successor Trustee is authorized or directed to distribute from the trust amounts necessary to make payment of such taxes, my Personal Representative may collect such amounts from my successor Trustee.

ARTICLE VIII

FIDUCIARY POWERS

A. I give to my Personal Representative named or described above all the powers conferred upon a personal representative by the laws of the State of Oregon, including, but not limited to, those set forth in ORS 114.305, whether or not such powers are exercised in the State of Oregon.

B. In addition to such powers, but without limitation thereof, I give to my Personal Representative full power and authority:

1. Division of Estate. To make any distribution in cash or in specific property and to cause any share to be composed of property different in kind from any other share and to make pro rata or non pro rata distributions, without regard to any difference in the tax basis of the property and without the requirement of making any adjustment among the beneficiaries. Any such distributions, allocations or valuations shall be binding and conclusive on all parties.

2. Tax Elections/Discretions. My Personal Representative shall have sole discretion to: (1) claim deductions available to me or to my estate on estate tax returns or on state or federal income tax returns; (2) use date-of-death values or alternate valuation date values for estate tax purposes; and (3) make any other election or decision available under any federal or state tax laws. Any such election or decision may be made regardless of the effect thereof on any beneficiary or on any interest passing under this Will or otherwise, and without adjustment between income and principal or among beneficiaries.

3. Distributions to Minors. To distribute any interest in the estate to which a minor beneficiary is entitled to the individual selected by my Personal Representative as Custodian under the Oregon Uniform Transfers to Minors Act or under any other comparable state law.

ARTICLE IX

MISCELLANEOUS

A. Table of Contents, Titles, Captions. The table of contents, titles and captions used in this instrument are for convenience of reference only and shall not be construed to have any legal effect.

B. Statutory References. Unless the context clearly requires another construction, each statutory reference in this instrument shall be construed to refer to that statutory section mentioned, related successor sections and corresponding provisions of any subsequent law, including all amendments.

IN WITNESS WHEREOF, I execute this my last will on May 22, 1992.

James L. Rounsefell
JAMES L. ROUNSEFELL
Social Security No.: 544-32-3456

Candace M. Lee Residing at Boring, Ore.
Michael J. Buob Residing at Boring, OR

AFFIDAVIT OF ATTESTING WITNESSES TO WILL

STATE OF OREGON)

) ss.
County of Clatsaman)

We, the undersigned, being sworn, each say:

We are the attesting witnesses to the Will executed by JAMES L. ROUNSEFELL, dated May 22, 1992, consisting of five (5) typewritten pages, not including this page. The Will was executed in our presence and in the presence of the testator who declared the instrument to be his Will and requested us to sign our names as witnesses, which we did. To the best of our knowledge and belief, at the time of executing the Will the testator was of legal age, of sound mind, and not acting under any restraint, undue influence, duress or fraudulent misrepresentation.

Candace M. Lee

Michael J. Crocker

SUBSCRIBED AND SWORN to by each of the affiants above named
this 22 day of May, 1992.



Caryn E. Huebner

Notary Public for Oregon

My commission expires: 3-27-95

CLACKAMAS COUNTY
FILED: 99 JUL -9 PM 1:11
CLACKAMAS COUNTY
FILED: 99 JUL 13 PM 3:05

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

In the Matter of the Estate of:) Case No.: P99-4-40
James L. Rounsefell,)
Deceased.) Petition to Close Estate and Discharge
_____) Personal Representative; and Order

Petitioner, John K. Larson, of attorneys for Nancy J. Rounsefell, the duly
appointed and acting personal representative herein, alleges:

1.

Nancy J. Rounsefell was appointed personal representative of the estate of the
decendent by order of this court dated May 3, 1999.

1 - Petition to Close Estate and Discharge Personal Representative; and Order

The Rencher Law Firm, LLP
5100 SW Macadam Ave., Suite 400
Portland, Oregon 97201
(503) 295-2412

2.

At the time of the filing of the petition for probate of the will and estate, the nature, extent and value of decedent's assets were unknown to petitioner.

3.

It now appears that there are no estate assets to probate.

WHEREFORE, petitioner prays for an order closing the estate of James L. Rounsefell, deceased, and discharging Nancy J. Rounsefell as personal representative of the estate.

DATED this 8th day of July, 1999.

THE RENCHER LAW FIRM, LLP

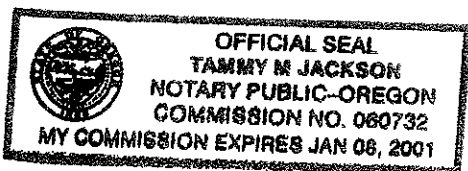
John K. Larson, OSB #91068
Of Attorneys for Personal Representative

VERIFICATION

STATE OF OREGON)
) ss.
County of Multnomah)

I, John K. Larson, being first duly sworn, say that I am one of the attorneys for the personal representative in the within entitled cause and that the foregoing Petition to Close Estate and Discharge Personal Representative; and Order is true as I verily believe.

Subscribed and sworn to before me July 8th, 1999.



Tammy M. Jackson
NOTARY PUBLIC FOR OREGON
My commission expires: 01/06/01

2 - Petition to Close Estate and Discharge Personal Representative; and Order

The Rencher Law Firm, LLP
5100 SW Macadam Ave., Suite 400
Portland, Oregon 97201
(503) 295-2412

ORDER

IT IS SO ORDERED this 13 day of July, 1999, that the Estate of James L. Rounsefell is closed and the Personal Representative is discharged.

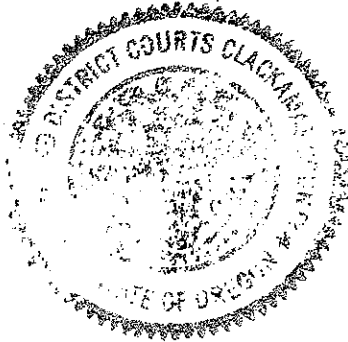
Sharon L. Persim
Circuit Court Judge
PROBATE COORDINATOR

ATTORNEYS FOR PERSONAL REPRESENTATIVE

John K. Larson, OSB #91068
The Rencher Law Firm, LLP
5100 SW Macadam Ave., Suite 400
Portland, OR 97201
(503) 295-2412

PERSONAL REPRESENTATIVE:

Nancy J. Rounsefell
22515 SE Hoffmeister
Boring, OR 97009
(503) 658-2966



Certified True Copy Of The Original
Dated This 14 Day of June, 1999
Trial Court Administrator
By: [Signature]

3 - Petition to Close Estate and Discharge Personal Representative; and Order

The Rencher Law Firm, LLP
5100 SW Macadam Ave., Suite 400
Portland, Oregon 97201
(503) 295-2412



**PACIFIC NORTHWEST TITLE
TRI-COUNTY**

9020 SW Washington Sq. Rd., Suite 220
Tigard, OR 97223
Title 503-671-0505 Fax 503-643-3746
Escrow (503) 350-5080 Fax (503) 659-7160
Visit us at www.pnwtr.com

**PRELIMINARY COMMITMENT
FOR TITLE INSURANCE**

November 28, 2006

Order Number: 05272880-C

Property Address: 22515 SE Hoffmeister Road
Damascus, OR 97009

SUPPLEMENTAL REPORT

Pacific Northwest Title of Oregon, Inc
12050 SE Stevens Rd, #100
Portland, OR 97266

Attention: Christine D Crenshaw-Boring
Telephone: (503) 350-5080

Reference: Rounsefell/To Come

	<u>Amount</u>	<u>Premium</u>
ALTA Owner's Policy (1992)	\$ TO COME	\$ TO COME
ALTA Loan Policy (1992)	\$ TO COME	\$ TO COME
Government Service Charge		\$ 50 00
Lien Search - Sunrise Water Authority		\$ 10 00
Endorsements 7 4, 7 11 & 7 31		\$ 50 00

This is a preliminary billing only; a consolidated statement of all charges, credits, and advances, if any in connection with this order will be provided at closing

Pacific Northwest Title is prepared to issue on request and on recording of the appropriate documents, a policy or policies as applied for, with coverages as indicated, based on this preliminary commitment that as of November 17, 2006 at 5:00 p.m. title of the property described herein is vested in:

Unknown Successor Trustee of THE JAMES L ROUNSEFELL TRUST and
NANCY J ROUNSEFELL, Trustee of THE NANCY J ROUNSEFELL TRUST

Subject only to the exceptions shown herein and to the terms, conditions and exceptions contained in the policy form. This commitment is preliminary to the issuance of a policy of title insurance and shall become null and void unless a policy is issued, and the full premium paid

Description:

See Exhibit A Attached hereto and made a part hereof

SCHEDULE B

GENERAL EXCEPTIONS:

- 1 Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records
- 2 Any facts, rights, interest, easements or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof
- 3 (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records
- 4 Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records
- 5 Statutory liens or other liens or encumbrances, or claims thereof, which are not shown by the public records

SPECIAL EXCEPTIONS:

6 Unpaid taxes for 2001-2002:
Levied Amount : \$1,504 44, plus interest and fees, if any

Unpaid taxes for 2002-2003:
Levied Amount : \$1,552 14, plus interest and fees, if any

Unpaid taxes for 2003-2004:
Levied Amount : \$1,591 99, plus interest and fees, if any
Account No : 23E03BC00800
Levy Code : 026-009
Key No : 00603467
(Affects Parcel I)

NOTE: Taxes set forth above have been reduced by reason of a Veteran's Exemption. If property is conveyed to person or persons not eligible for such exemption, re-assessments will be made

7 Unpaid taxes for 2003-2004:
Levied Amount : \$190 89, plus interest and fees, if any

Unpaid taxes for 2004-2005:
Levied Amount : \$191 27, plus interest and fees, if any

Unpaid taxes for 2005-2006:
Levied Amount : \$237 27

Unpaid taxes for 2006-2007:
Levied Amount : \$247 16
Account No : 23E03BC00100
Levy Code : 026-009
Key No : 01567548
(Affects Parcel II)

SCHEDULE B - CONTINUED

8 Lien, under the provisions of Senior Citizen's Deferral pursuant to ORS 311 666 to 311 701, for repayment of real property taxes for the years 2004-2005 through 2006-2007, which are subject to future collection as provided therein
In favor of : Oregon Department of Revenue
Deferral Account No : 84930-39949 490 04 6 1
Notice thereof recorded: July 2, 2004
Fee No : 2004-061203

9. As disclosed by the tax roll the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property may be subject to additional taxes or penalties and interest **(Affects Parcel II)**

NOTE: Due to a farm or forest land deferral indicated on the subject property, we will require an Affidavit for Residential Use to be completed and returned to us indicating the primary purpose and use of the property is for a personal residence, in order for Pacific Northwest Title to issue its 8 1 (7 31) Environmental Endorsement to the proposed loan policy

10 The herein described premises are within the boundaries of and subject to the statutory powers, including the power of assessment, of the Sunrise Water Authority **(Affects Parcels I and II)**
NOTE: A search will be requested upon the sale of the herein described property

11 Rights of the public in and to any portion of the herein described premises lying within the boundaries of Hoffmeister Road **(Affects Parcel I)**

12 Trust Deed, including the terms and provisions thereof to secure the amount noted below and other amounts secured thereunder, if any:

Grantor : James L. Rounsefell Trust and Nancy J. Rounsefell Trust, James L. and Nancy J. Rounsefell, Trustees
Trustee : Transamerica Title Ins. Co.
Beneficiary : Washington Mutual, a Federal Savings Bank
Dated : July 25, 1995
Recorded : August 1, 1995
Fee No : 95-044818
Amount : \$81,000.00
Loan No : 002-04-255-0242098-2

(Affects Parcel I)

13 Effects, if any, of Deed, including the terms and provisions thereof:

Grantor : James L. Rounsefell and Nancy J. Rounsefell, husband and wife
Grantee : The James L. Rounsefell Trust and the Nancy J. Rounsefell Trust
Recorded : May 28, 1992
Fee No : 92 32217

(Affects Parcel II)

NOTE: Said deed does not convey correctly into the Trust. A correction deed recorded August 1, 1995 in Fee No 95-044817 which corrected Parcel I only. Review of certification of Trust required and correctly deeding out on Parcel II

14 Prior to the issuance of insurance on any encumbrance or conveyance executed by the Trustee of the Trust referred to herein, a Certification of Trust must be completed and executed by the Trustees. For title insurance purposes, we will require a Certification of Trust to be completed at the time of closing for any documents which require the Trustee(s)' signature(s)

15 Any conveyance of the subject property must be executed by Unknown Successor Trustee and Nancy J. Rounsefell individually and as Trustee

SCHEDULE B – CONTINUED

- 16 No search has been made for Financing Statements filed in the office of the Secretary of State. Exception may be taken to such matters as may be shown thereby. No liability is assumed if a Financing Statement is filed in the office of the County Recorder covering timber, crops, fixtures or contracts on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system or by recorded lot and block **(Affects Parcel I)**
- 17 Unrecorded leaseholds, rights of parties in possession, and security interests in trade fixtures, personal property or unattached improvements, if any **(Affects Parcel I)**
- 18 Parties in possession, or claiming to be in possession, other than the vestees shown herein. For the purpose of ALTA Extended coverage, we will require an Affidavit of Possession be completed and returned to us. Exception may be taken to such matters as may be shown thereby
- 19 Statutory liens for labor or materials, including liens for contributions due to the State of Oregon for unemployment compensation and for workmen's compensation, which have now gained or hereafter may gain priority over the lien of the insured mortgage where no notice of such liens appear of record

NOTE: Taxes paid in full for 2006-2007:

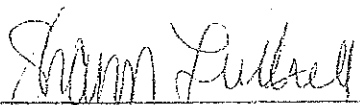
Levied Amount : \$1,997.30
Account No : 23E03BC00800
Levy Code : 026-009
Key No : 00603467

(Affects Parcel I)

NOTE: We find no judgments or Federal Tax Liens against NANCY J. ROUNSEFELL

If you have any questions regarding this report or your escrow closing please contact Christine D. Crenshaw-Boring at (503) 350-5080, located at 12050 SE Stevens Rd., #100, Portland, OR 97266.
Email address: christinec@pnwtor.com

PACIFIC NORTHWEST TITLE OF OREGON, INC

By 
Sharon Luttrell
Title Officer
sharonl@pnwtor.com

SRL:mj

cc: Burns & Olson Realtors, Inc
Attn: Chris Olson (E-mailed)

Exhibit A

PARCEL I:

A tract of land situated in the Southwest one-quarter of the Northwest one-quarter of Section 3, Township 2 South, Range 3 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

BEGINNING at a point in the South line of said legal subdivision which bears East 671.27 feet from the Southwest corner of the Northwest one-quarter of said Section 3; thence continuing East along the South line of said legal subdivision 208 71 feet; thence North at right angles to said South line 208 71 feet; thence West parallel with the South line of said legal subdivision 208 71 feet; thence South 208 71 feet to the point of beginning

PARCEL II:

Lot 5, TANNENBAUM ESTATES, in the County of Clackamas and State of Oregon

SW 1/4 NW 1/4 SEC 3 T 2 S R 3 E W M
CLACKAMAS COUNTY

2 3E 3BC

This map was prepared for
assessment purposes only.

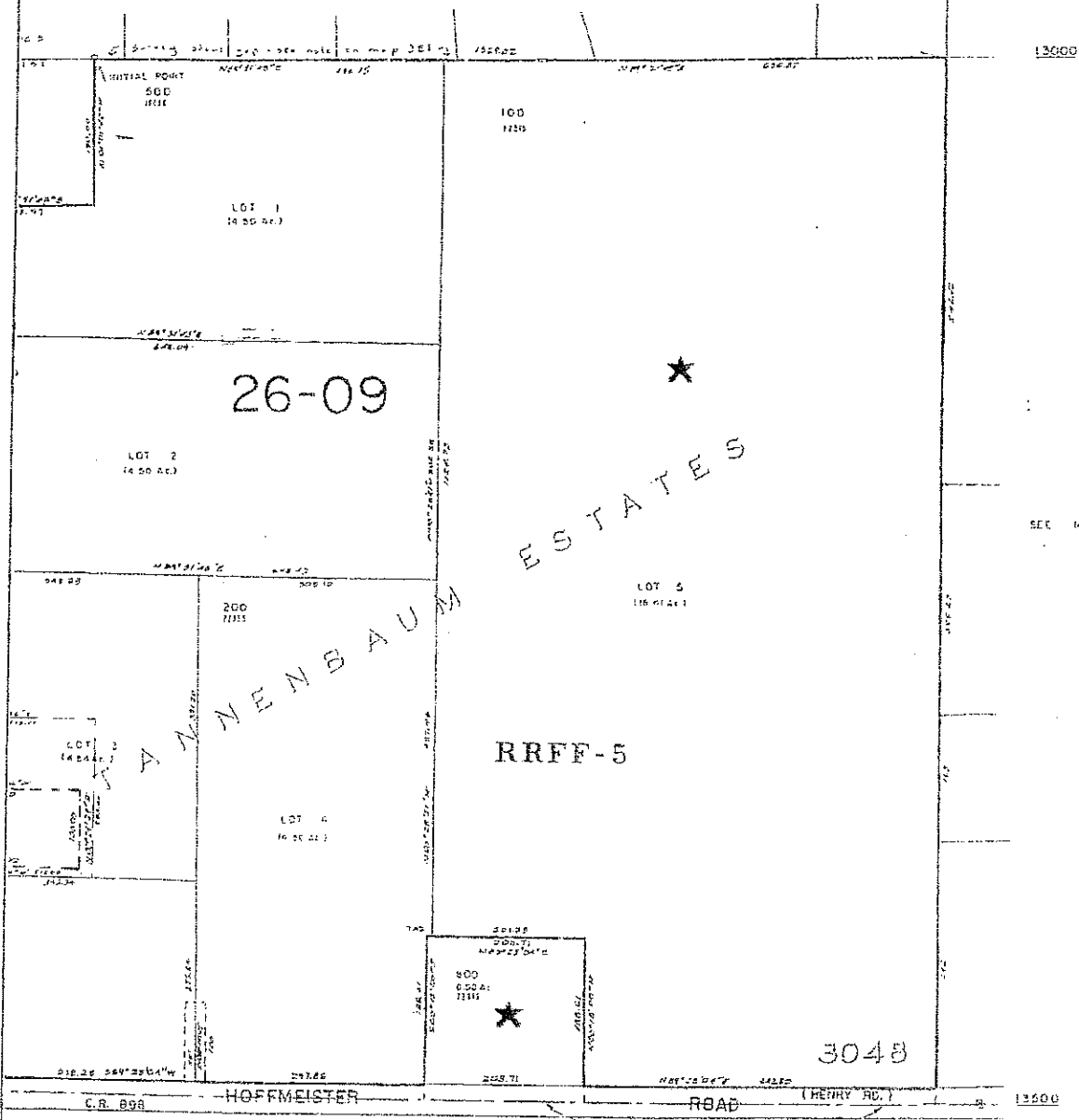
SCALE 1" = 100'

SEE MAP 2 3E 0388

22700

13000

SEE MAP 2 3E 0380



26-09

AMENBAUM
ESTATES

RRFF-5

3048

HOFFMEISTER

ROAD

(HENRY RD.)

APPROX 1/2 OF NW PIPELINE EASEMENT

SEE MAP 2 3E 0380

2 3E 3BC

JAN 18 2000

ECOR 22

THIS MAP IS FURNISHED AS A CONVENIENCE BY PACIFIC NORTHWEST TITLE

This map is not a survey and does not show the location of any improvements
The company assumes no liability for errors therein



44 20

"TANNENBAUM ESTATES"

LOCATED IN THE S.W. 1/4 OF THE N.W. 1/4 OF SEC. 3, T2S, R3E, W.M. CLACKAMAS COUNTY, OREGON

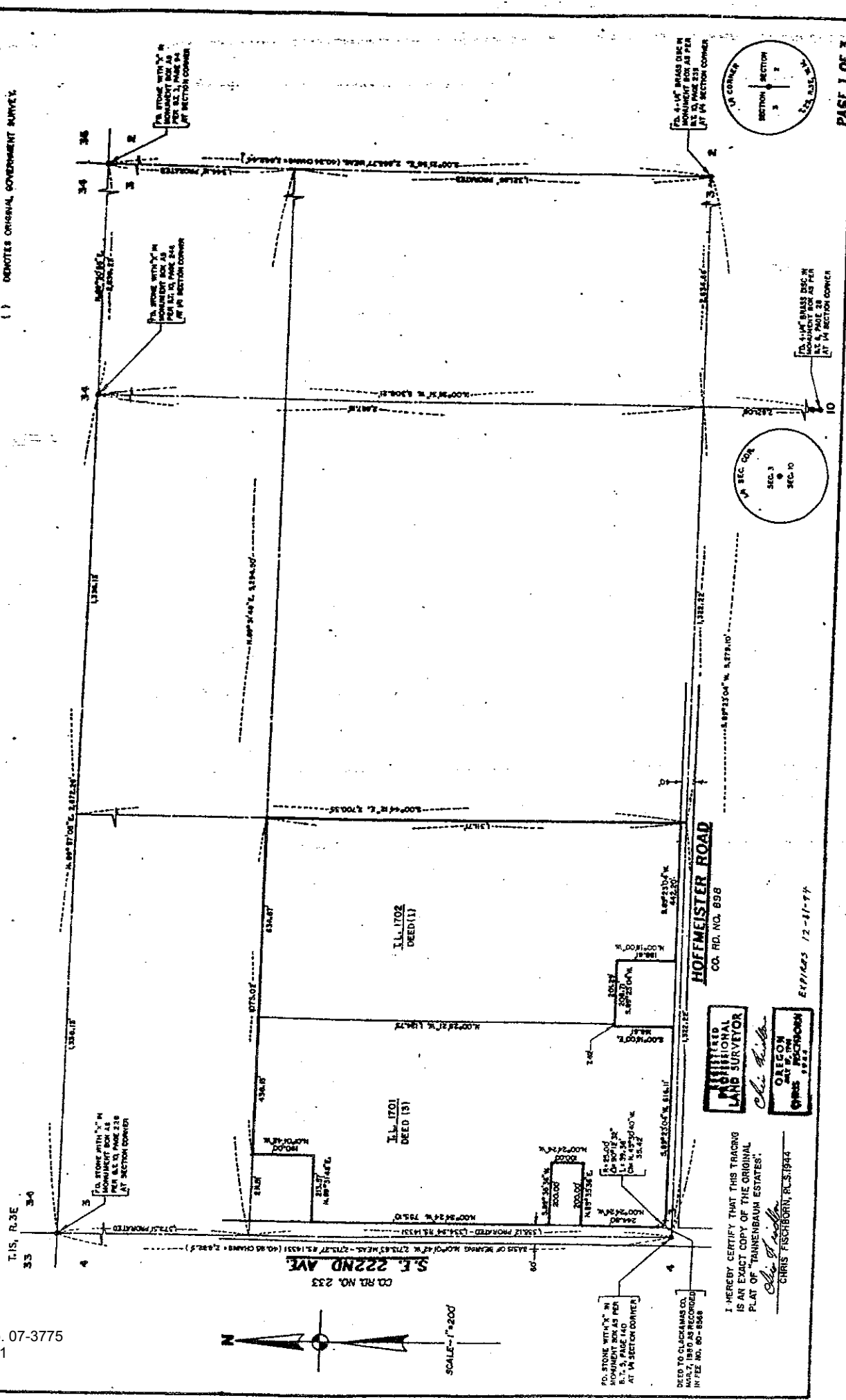
ZAROSINSKI-TATONE ENGINEERS, INC.
 3737 S. E. 6TH AVE. PORTLAND, OREGON 97202
 PH: 235-8795

DEED REFERENCE

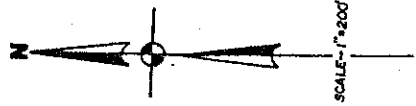
- DEED (1) FEE NO. 92-32217
- DEED (2) FEE NO. 90-14445
- DEED (3) FEE NO. 78-21780
- DEED (4) BK. 585, PG. 245, 4-8-61
- DEED (5) BK. 673, PG. 959, 5-16-66
- DEED (6) FEE NO. 75-8959

LEGEND

- DENOTES MONUMENTS FOUND AS NOTED.
- DENOTES 5/8" x 30" LOWE IRON ROD SET WITH A YELLOW PLASTIC CAP STAMPED "ZAROSINSKI-TATONE, INC. DRIVEN TO GROUND SURFACE, AND SET ON APRIL 1, 1953.
- ⊙ DENOTES IRON ROD.
- ⊙ DENOTES IRON PIPE.
- ⊙ DENOTES FOUND.
- () DENOTES ORIGINAL GOVERNMENT SURVEY.



Resolution No. 07-3775
 Attachment 4.1



I HEREBY CERTIFY THAT THIS TRACING IS AN EXACT COPY OF THE ORIGINAL PLAT OF "TANNENBAUM ESTATES".

Chris Fishborn
CHRIS FISHBORN, RLS 1943
 OREGON PROFESSIONAL LAND SURVEYOR
 EXP. 06/25 12-31-77

UNDIVIDED PROFESSIONAL LAND SURVEYOR

CO. RD. NO. 958

PAGE 1 OF 3
 3048

99 20

TANNENBAUM ESTATES

LOCATED IN THE S.W. 1/4 OF SEC. 3, T2S, R3E, W.M. CLACKAMAS COUNTY, OREGON

ZAROSINSKI-TATONE ENGINEERS, INC.
3757 S.E. 8TH AVE. PORTLAND, OREGON 97202
PH: 235-8795

MARRIAGE

BASES OF BEARINGS NORTH 07°14' WEST ON THE WEST LINE OF THE NORTHWEST 1/4 OF SECTION 3 AS PER R.S. 14331.
PURPOSE OF SURVEY TO SUBDIVIDE TAX LOTS 1701 & 1702 ON CLACKAMAS COUNTY TAX MAP 25 SE SEC INTO 5 LOTS AS SHOWN.
HOFFMEISTER ROAD: HELD THE CENTER OF SECTION LINE AS THE CENTER LINE OF THE ROAD.

S.E. 222ND AVE.: THE COUNTY ROAD DOES NOT FOLLOW THE SECTION LINE AS IT DOES NORTH FROM THE WEST 1/4 CORNER OF SECTION 3. R.S. 3631 SHOWS TYING A 1-1/2" IRON PIPE, N42°04'E, 43.84' (SHOULD BE 3.48'-04" E) FROM THE NORTHWEST CORNER OF SECTION 3. BE. 3 PAGE 141 HAS THIS SAME TIE FROM SAID SECTION CORNER. THEREFORE A POINT WAS ESTABLISHED 8.42' 225°42' FROM R.S. 3631, 43.94' FROM SAID SECTION CORNER AND THIS PRODUCES A ROAD BEARING OF N00°24'24" W. ALONG THE CENTER LINE FROM THE WEST 1/4 COR. OF SEC. 3, PER R.S. 14331 NORTH BOUNDARY DEEDS) CALLS TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 3. THIS REQUIRES PROMPTLY THE MEASURED DISTANCES ALONG THE WEST BOUNDARY OF THE NORTHWEST 1/4 OF SECTION 3 AND THE EAST BOUNDARY OF NORTHWEST 1/4 OF SECTION 3 AS SHOWN. R.S. 14331 DO THIS PROMPTING ALONG THE WEST LINE OF THE NORTHWEST 1/4 BUT DO NOT DO SO ON THE EAST BOUNDARY OF SAID NORTHWEST 1/4. THEREFORE THE WEST END OF SAID NORTH BOUNDARY AGREES WITH R.S. 14331 BUT THE EAST END OF SAID NORTH BOUNDARY IS 10.30' SOUTH OF THE 5/8" IRON ROD FOUND AT THIS LOCATION. PLATS TO THE SOUTH OF THIS LINE, RIDGEVIEW, & RIDGEWAY NO. 2 HAVE ESTABLISHED THEIR NORTH BOUNDARY AS AN EQUAL DIVISION OF THE NORTHWEST 1/4 OF SECTION 3, LEAVING A 4.2' 10' TO 20' GAP BETWEEN PROPERTIES.

EAST BOUNDARY THIS LINE IS SUBDIVISIONAL (THE EAST LINE OF THE N.W. 1/4 OF SEC. 3) R.S. 3374 SET THE 5/8" I.P. AT BOTH ENDS OF THIS LINE BUT DOES NOT SHOW SUBDIVIDING SAID SECTION. R.S. 3374 SHOWS A FENCE 10' WEST OF THE IRON ROD THAT WAS SET, WHICH WOULD BE CLOSE TO THE ACTUAL SUBDIVISIONAL LINE ESTABLISHED ON THIS SURVEY.

TAX LOT 1900: HELD THE DEED DISTANCE OF 671.27' FROM THE WEST 1/4 CORNER OF SECTION 3. THEN NORTHERLY AT RIGHT ANGLES TO THE FRONT-OF-WAY WHICH FITS CLOSELY WITH THE IRON ROD FOUND. THEN HELD THE 5/8" IRON ROD FOUND AT THE N.W. CORNER OF T.L. 1900 AS CALLED FOR IN DEED (1). THEN HELD THE DEED (1) BEARINGS AND DISTANCES FROM SAID N.W. CORNER TO ESTABLISH THE N.E. AND S.E. CORNERS OF SAID TAX LOT AS SHOWN.

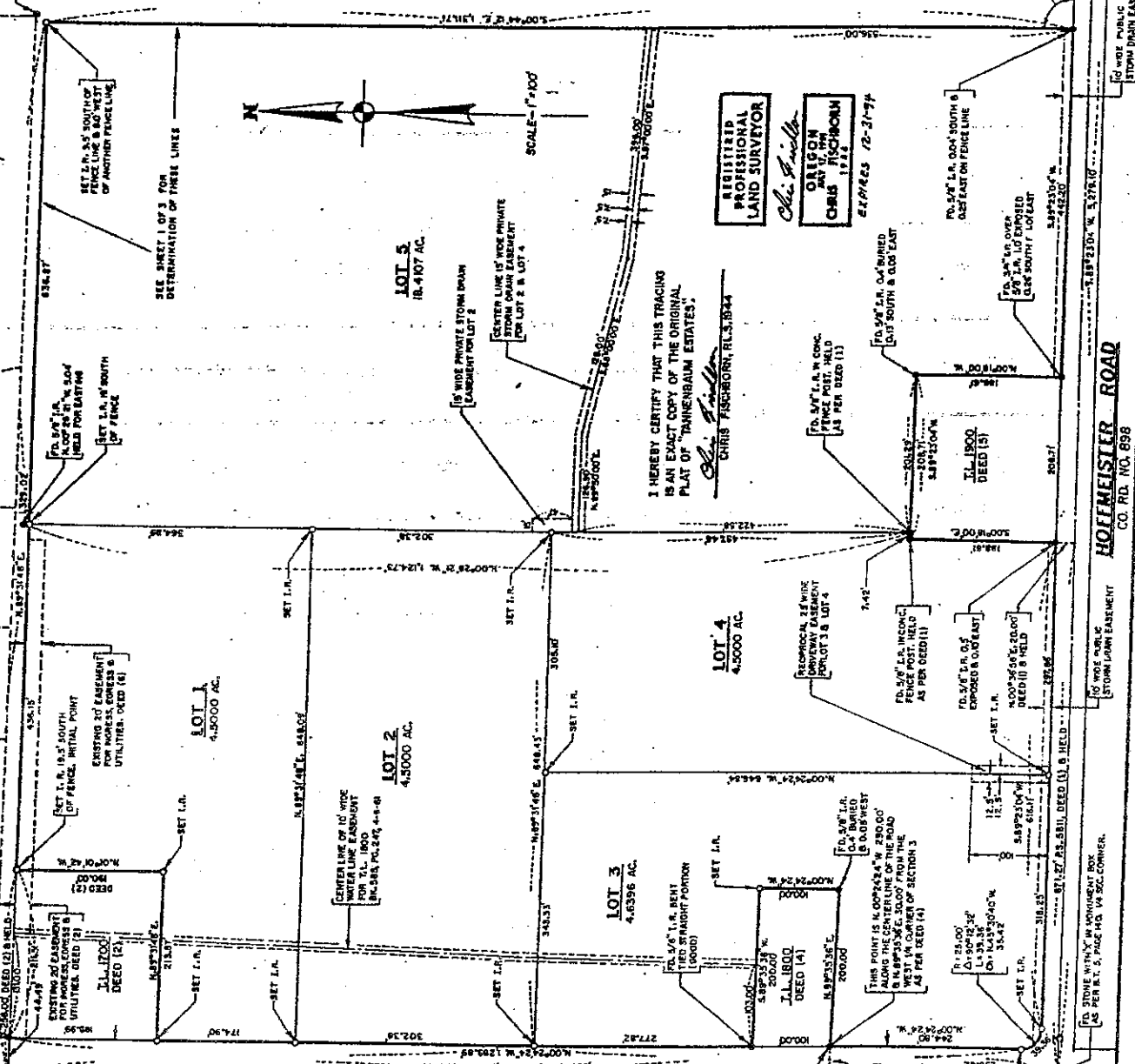
TAX LOT 1800: HELD THE DEED DISTANCE OF 290.00' NORTH FROM THE WEST 1/4 CORNER OF SECTION 3 ALONG THE CENTER LINE OF THE ROAD AS CALLED FOR IN DEED (14). THEN HELD DEED (14) BEARINGS AND DISTANCES TO ESTABLISH THE CORNERS AS SHOWN.

TAX LOT 1700: DEED (2) BEGINS AT THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 3. THEN EAST 286.00', THEN SOUTH PARALLEL TO THE SECTION LINE, 190.00'. THE SOUTH LINE IS CALLED AS PARALLEL TO THE NORTH BOUNDARY. THESE CONDITIONS HAVE ALL BEEN HELD ON THIS SURVEY. BOUNDARY LINE BETWEEN TAX LOTS 1701 AND 1702: DEED (1) CALLS THIS LINE AS PARALLEL TO THE EAST LINE OF THE S.W. 1/4 OF THE N.W. 1/4 OF SEC. 3, R.S. 14331 ESTABLISHED SAID LINE BY HOLDING THE IRON ROD AT THE NORTH END OF SAID LINE. THEREFORE IT WAS DECIDED TO HOLD THE 5/8" IRON ROD SET BY R.S. 14331 AT THE NORTH END OF THE LINE BETWEEN TAX LOTS 1701 AND 1702.

NOTES:

1. THERE ARE NO GEODETIC MONUMENTS WITHIN 1/2 MILE OF THE BOUNDARY OF THIS PLAT.
2. SEE PAGE 1 FOR LEGEND.

PLAT NO. 17581
PAGE 2 OF 3
7048



Resolution No. 07-3775
Attachment 4.1

S.E. 222ND AVE.
CO. RD. NO. 233

HOFFMEISTER ROAD
CO. RD. NO. 898

REGISTERED PROFESSIONAL LAND SURVEYOR
Chris Fishbein
OREGON
MAY 17, 1978
CHRIS FISCHBEIN, R.L.S. 18344
EXP. 12-31-74

I HEREBY CERTIFY THAT THIS TRACING IS AN EXACT COPY OF THE ORIGINAL PLAT OF "TANNENBAUM ESTATES,"

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

SET 1/4" S.S. SOUTH OF
THE 5/8" I.R. 8.10' WEST
OF ANOTHER FENCE LINE

SEE SHEET 1 OF 5 FOR
DETERMINATION OF THESE LINES

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

FO. 5/8" I.R. O.G. BURNED
10.30' SOUTH & 284' EAST

99 20

"TANNENBAUM ESTATES"

LOCATED IN THE S.W. 1/4 OF THE N.W. 1/4 OF SEC. 3, T2S, R3E, W.1M.
CLACKAMAS COUNTY, OREGON

ZAROSINSKI-TATONE ENGINEERS, INC.
3737 S.E. 8TH AVE. PORTLAND, OREGON 97202
PH: 236-8795

Resolution Attachment

SURVEYOR'S CERTIFICATE:

I, CHRIS FISCHBORN, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LANDS REPRESENTED ON THE ATTACHED MAP TO BE KNOWN HENCEFORTH AS "TANNENBAUM ESTATES". SAID PARCEL OF LAND BEING PART OF THOSE PARCELS OF LAND CONVEYED TO ROBERT L. ROUSENFELL & ILENE R. ROUSENFELL AS DESCRIBED IN THE ACCOMPANYING DEED BY FEE NO. 78-2780 AND THAT PARCEL OF LAND CONVEYED TO THE JAMES L. ROUSENFELL TRUST AND THE NANCY J. ROUSENFELL TRUST AND RECORDED MAY 22, 1992, BY FEE NO. 92-32212, CLACKAMAS COUNTY DEED RECORDS, LOCATED IN THE SOUTHWEST ONE QUARTER OF THE NORTHWEST ONE QUARTER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON. THAT AT THE INITIAL POINT OF SAID SURVEY I SET A 3/8 INCH IRON ROD, 30 INCHES LONG AT THE NORTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED TO ROBERT L. ROUSENFELL AND ILENE R. ROUSENFELL AND RECORDED APRIL 2, 1990, BY FEE NO. 90-14465, CLACKAMAS COUNTY DEED RECORDS. SAID POINT BEING SOUTH 01°01'42" EAST ALONG THE WESTERLY LINE OF SAID SECTION 3, A DISTANCE OF 1,374.81 FEET NORTH 89°31'48" EAST ALONG THE NORTHERLY LINE OF SAID ROBERT AND ILENE ROUSENFELL PROPERTY, AND 234.00 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 3.

THESE CONTAINING NORTH 89°31'48" EAST ALONG THE NORTHERLY LINE OF THE FIRST MENTIONED ROBERT ROUSENFELL PROPERTY AND ALONG THE NORTHERLY LINE OF THE JAMES AND NANCY ROUSENFELL TRUST PROPERTY, A DISTANCE OF 1073.02 FEET TO THE NORTHEAST CORNER OF SAID ROUSENFELL TRUST PROPERTY; THENCE SOUTH 00°14'12" EAST, ALONG THE EASTERLY LINE OF SAID ROUSENFELL TRUST PROPERTY, A DISTANCE OF 1312.11 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HOPKINSTER ROAD, THENCE SOUTH 89°23'04" WEST ALONG SAID HOPKINSTER ROAD, A DISTANCE OF 442.20 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED TO JAMES L. ROUSENFELL AND RECORDED MAY 14, 1966 IN BOOK 873, PAGE 356, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 00°14'00" WEST ALONG THE EASTERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 184.61 FEET TO THE NORTHEAST CORNER OF SAID ROUSENFELL PROPERTY; THENCE SOUTH 89°23'04" WEST ALONG THE NORTHERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 208.71 FEET TO THE NORTHWEST CORNER OF SAID ROUSENFELL PROPERTY; THENCE SOUTH 00°14'00" WEST ALONG THE WESTERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 186.61 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID HOPKINSTER ROAD; THENCE SOUTH 89°23'04" WEST ALONG SAID HOPKINSTER ROAD, A DISTANCE OF 614.11 FEET TO A POINT OF CURVE; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE ALONG A 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°12'32" AN ARC DISTANCE OF 33.54 FEET (THE LOW CHORD OF SAID CURVE BEARS NORTH 49°30'47" WEST A DISTANCE OF 33.42 FEET) TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID CURVE BEARS NORTH 00°24'24" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 244.80 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND CONVEYED TO ROBERT L. ROUSENFELL AND ILENE R. ROUSENFELL AND RECORDED APRIL 6, 1961, IN BOOK 285, PAGE 245, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 89°30'34" EAST ALONG THE SOUTHERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 200.00 FEET TO THE SOUTHWEST CORNER OF SAID ROUSENFELL PROPERTY; THENCE NORTH 00°24'24" WEST ALONG THE EASTERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 100.00 FEET TO THE NORTHEAST CORNER OF SAID ROUSENFELL PROPERTY; THENCE SOUTH 89°35'34" WEST ALONG THE NORTHERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 200.00 FEET TO SAID EASTERLY RIGHT-OF-WAY LINE OF SAID SOUTHEAST 222ND AVENUE; THENCE NORTH 00°24'24" WEST ALONG CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 89°31'48" EAST ALONG THE SOUTHERLY LINE OF THAT PARCEL OF LAND CONVEYED TO ROBERT L. ROUSENFELL AND ILENE R. ROUSENFELL AND RECORDED APRIL 2, 1990 BY FEE NO. 90-14465, CLACKAMAS COUNTY DEED RECORDS; THENCE NORTH 89°31'48" EAST ALONG THE SOUTHERLY LINE OF THE LAST MENTIONED ROUSENFELL PROPERTY, A DISTANCE OF 218.57 FEET TO THE SOUTHEAST CORNER OF SAID ROUSENFELL PROPERTY; THENCE NORTH 01°01'42" WEST ALONG THE EASTERLY LINE OF SAID ROUSENFELL PROPERTY, A DISTANCE OF 190.00 FEET TO THE INITIAL POINT OF THE HEREIN DESCRIBED "TANNENBAUM ESTATES".

SAID PARCEL OF LAND CONTAINS AN AREA OF 36.2503 ACRES MORE OR LESS.

I HEREBY CERTIFY THAT THIS TRACING IS AN EXACT COPY OF THE ORIGINAL PLAT OF "TANNENBAUM ESTATES".

Chris Fischer
CHRIS FISCHBORN, P.L.S. 1844
4-12-93
DATE

REGISTERED PROFESSIONAL LAND SURVEYOR
Chris Fischer
OREGON
MAY 14, 1988
CHRIS FISCHBORN
P.L.S. 1844
EFFECTIVE 12-31-94

DECLARATION:

KNOW ALL PEOPLE BY THESE PRESENTS THAT ROBERT L. ROUSENFELL, ILENE R. ROUSENFELL, JAMES L. ROUSENFELL & NANCY J. ROUSENFELL, DO HEREBY MAKE, ESTABLISH AND DECLARE THE ANNEXED MAP OF "TANNENBAUM ESTATES" AS DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE TO BE A TRUE AND CORRECT MAP AND PLAT THEREOF. ALL LOTS BEING OF THE DIMENSIONS SHOWN AND THEY DO HEREBY DEDICATE TO CLACKAMAS COUNTY PUBLIC STORM DRAINAGE EASEMENTS AS SHOWN ON SAID PLAT. THE PUBLIC IS HEREBY GRANTED THE RIGHT TO MAINTAIN, REPLACE OR ENLARGE STORM SEWER FACILITIES ALONG THESE EASEMENTS AND WILL NOT BE IN ANYWAY RESPONSIBLE FOR REPLACING THE LANDSCAPING, FENCING OR OTHER STRUCTURES, SHRUBS OR TREES THAT MAY NOT OR BE PLACED WITHIN THE STORM DRAINAGE EASEMENTS. THE PUBLIC IS REQUESTED TO GIVE ADEQUATE NOTICE BEFORE SUCH ACTIVITIES ARE COMMENCED AND SHALL LIMIT ACTIVITIES TO THAT NECESSARY TO ACHIEVE THE PURPOSE OF MAINTAINING THE STORM DRAINAGE FEATURES AND CONVEY PRIVATE EASEMENTS AS SHOWN. THERE ARE NO WATER RIGHTS APPURTENANT TO THIS PROPERTY.

WITNESS OUR SIGNATURES THIS 14 DAY OF April, 1993.

Robert L. Rousemfell
ROBERT L. ROUSENFELL
Also per consent by *Ilene R. Rousemfell*
ILENE R. ROUSENFELL
James L. Rousemfell
JAMES L. ROUSENFELL TRUSTEE
Nancy J. Rousemfell
NANCY J. ROUSENFELL TRUSTEE

ACKNOWLEDGEMENT:

STATE OF OREGON
COUNTY OF CLACKAMAS
BE IT REMEMBERED THAT ON THIS 14 DAY OF April, 1993, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE STATE OF OREGON, PERSONALLY APPEARED, ROBERT L. ROUSENFELL, ILENE R. ROUSENFELL, JAMES L. ROUSENFELL & NANCY J. ROUSENFELL, KNOWN TO ME TO BE THE PERSONS NAMED IN THE FOREGOING DOCUMENT, WHO BEING FIRST DULY SWORN, DID ACKNOWLEDGE TO ME THAT THEY EXECUTED THE FOREGOING DOCUMENT FREELY AND VOLUNTARILY, IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL, THE DAY AND YEAR FIRST IN THIS CERTIFICATE WRITTEN.

Michael J. Buckley
MICHAEL J. BUCKLEY
NOTARY PUBLIC FOR THE STATE OF OREGON
MY COMMISSION EXPIRES 7/1/95

APPROVALS:

APPROVED THIS 17th DAY OF May, 1993
CLACKAMAS COUNTY PLANNING COMMISSION
BY *Caroline Sparrow*
DIRECTOR, PLANNING DEPARTMENT

APPROVED THIS 21st DAY OF May, 1993
CLACKAMAS COUNTY ROAD OFFICIAL
BY *Michael J. Buckley*
CLACKAMAS COUNTY ROAD OFFICIAL

PL DEPUTY

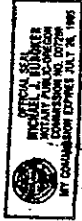
APPROVED THIS 3rd DAY OF June, 1993
CLACKAMAS COUNTY SURVEYOR
BY *Thomas A. Miller*
CLACKAMAS COUNTY SURVEYOR

PURSUANT TO O.R.S. 92.095 I HEREBY CERTIFY THAT ALL TAXES HAVE BEEN PAID THRU June 30, 1993

APPROVED THIS 12th DAY OF June, 1993
ASSESSOR & TAX COLLECTOR
BY *Carolyn D. Quinn*
DEPUTY

APPROVED THIS 7th DAY OF June, 1993
CLACKAMAS COUNTY COMMISSIONER
BY *Judith K. Hadden*
CLACKAMAS COUNTY COMMISSIONER

ATTEST THIS 9th DAY OF JULY, 1993
CLACKAMAS COUNTY CLERK
BY *Jana K. Washburn*
DEPUTY



... examined separate and apart from her
said husband, and the contents of said deed being made known
to her she acknowledged that she executed the same freely and
voluntarily and without compulsion from any one.

In witness whereof I have hereunto set my hand and
this 5th day of February A.D. 1865

Filed for and April 7th 1874
Reas April 1st 1874

W. W. McCune Clerk of the Court
by W. J. McCune Deputy

K/31

United States

The United States of America

Do all to whom these presents shall come greeting:

Whereas there has been deposited in the General Land Office of the
United States a certificate numbered twenty two hundred and seventy four
of the Register and Receiver at Oregon City Oregon, whereby it appears
that under the provisions of the Act of Congress approved the 27th day of
September, 1860 entitled "An Act to create the Office of Surveyor General
of the Public Lands in Oregon, and to provide for the survey, and to make
donations to settle of the said Public Lands" and the legislative
supplemental thereto, the claim of Martin Deukes and his Wife
Harriet Deukes of Clark County, Oregon, Notification No 6913,
has been established, to a donation of one half section, or three hundred
and twenty acres of land, and that the same has been surveyed and
designated according to the Official Plat of Survey returned to the
General Land Office by the Surveyor General as the West half of the north
West quarter of section three and the North East quarter and the
East half of the North West quarter of section four, in Township two
South of Range three East, in the district of lands subject to sale at Oregon
City, Oregon, containing three hundred and twenty five acres and twenty
two hundredths of an acre.

Now Know Ye that the United States of America in consideration
of the premises and in conformity with the provisions of the Act afore
said, Have given and granted, and by these presents do give and
grant unto the said Martin Deukes and to his heirs the West half
and unto his Wife the said Harriet Deukes and to her heirs the East
half of the tract of land above described. We have and to have
the said tract with the appurtenances unto the said Martin
Deukes and his wife Harriet Deukes, and to their heirs and assigns
forever, their respective portions as aforesaid.

Andrew Johnson President of the United States have caused these Letters to be made Patent and the seal of the General Land Office to be hereunto affixed

Given under my hand at the City of Washington this Eighth day of October in the year of our Lord one thousand Eight hundred and sixty four and of the Independence of the United States the ninety first

By the President Andrew Johnson
By Peter S. Mills Secretary

Record Vol 3 page 113
Filed for Record April 7th 1874
A General Recession of the General Land Office

Recorded April 7th 1874

Recorded April 4th 1874

R. F. Langford Clerk & Recorder

By W. J. McGowan Deputy

Martin Decker & wife
to
Samuel Stink
Sheweth all men by these presents: that we Martin Decker and
Harriet Decker wife of the said Martin Decker, in consideration
of one thousand dollars to be paid by Samuel Stink do hereby
bargain sell and convey to said Samuel Stink and his heirs
and assigns forever the following described parcel of real Estate
to wit: A certain tract of land situated in Clackamas County
Oregon and more particularly described as follows to wit:

The South East quarter of the North West quarter and the
South West quarter of the North East quarter of section four
(4) of Town two (2) South of Range Three (3) East of the Willam-
ette Meridian, and containing Eighty acres together with the
tenements, hereditaments and appurtenances thereto belonging
or in anywise appertaining and also all our Estate, right, title
and interest at law and in equity therein or thereto, including
dower and claim of dower.

We have and to hold the same to the said Samuel Stink
and his heirs and assigns forever. And we do covenant with
the said Samuel Stink and his legal representatives forever
that the said real estate is free from all incumbrances, and
that we will and our heirs executors and administrators
shall warrant and defend the same to the said Samuel
Stink and his heirs and assigns forever against the
lawful claims and demands of all persons whatsoever.

In witness whereof we have hereunto set our hands and
seals this third day of April 1874

SW
to
Parcel
No.

Division No. 073745
April 4

In Testimony Whereof, I have hereunto set my hand and Notarial Seal the day and year last above written.

(Seal of Notary)

W.A. Dimick

Notary Public for Oregon

My commission expires January 4th, 1920.

Filed and recorded October 9, 1918 at 3:10 P.M.

J.G. Noe, County Recorder.

By L. Cochran, Deputy.

150/202
1918

This Indenture Witnesseth, That we James Harold Wilson and Ruth M. Wilson, his wife, for and in consideration of One and No/100 Dollars, to us paid, have bargained and sold, and by these presents do bargain, and convey unto Ida V. Wilson the following described real estate, situate in Clackamas County, State of Oregon, to-wit:

The Southwest quarter of the Northwest quarter of Section 3 Township 2 South of Range 3, East of the Willamette Meridian.

This deed is made to confirm title by entirety in the grantors herein.

To have and to hold the said premises with appurtenances, unto the said Ida V. Wilson her heirs and assigns forever; and we the said grantors do hereby covenant to and with the said grantee her heirs and assigns, that we are the owners in fee simple of said premises; that they are free from all incumbrances and that we will warrant and defend the same from all lawful claims whatsoever;

In Witness Whereof, we have hereunto set our hands and seals this 10th day of October A.D. 1918.

Signed, Sealed and Delivered in the Presence of

A.L. Heacock

W.A. Dimick

James Harold Wilson

Ruth M. Wilson

(Seal)
(Seal)

State of Oregon }
County of Clackamas } SS

On this 10th day of October A.D. 1918, personally came before me, a Notary Public in and for said County and State, the within named James Harold Wilson and Ruth M. Wilson his wife, to me personally known to be the identical persons described in and who executed the foregoing conveyance and acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein named.

Witness my hand and official seal, this, the day and year in this certificate above written.

(Seal of Notary)

W.A. Dimick

Notary Public for Oregon

My commission expires January 4th, 1920.

Filed and recorded Oct. 10, 1918 at 10:20 A.M.

H. J.G. Noe, County Recorder.

This Indenture Witnesseth, That I, Ida V. Wilson, unmarried for and in consideration of One and No/100 Dollars, to me paid, have bargained and sold, and by these presents do bargain, and convey unto James Harold Wilson and Ruth M. Wilson, his wife, the following described real estate, situate in Clackamas County, State of Oregon, to-wit:

The Southwest quarter of the Northwest quarter of Section 3, Township 2 South of Range 3 East of the Willamette Meridian.

Commencing at the South East corner of Lot Five in Block 159 in Oregon City, Oregon, running thence West on the south line of said lot Fifty-two and one half feet, thence north to a point on the north line of said lot fifty-two and one-half feet west of the north east corner of said lot, thence East to the north east corner of said lot, thence south to the place of beginning.

To have and to hold the above granted premises, with all the rights, easements and appurtenances thereto belonging unto the said Hetta-Bates Theroux and F. V. Theroux, their heirs and assigns forever. And the said grantors do covenant to and with the said grantees, their heirs and assigns that they are lawfully seized in fee of the above granted premises; that the said premises are free from all encumbrances and that they will and their heirs, executors and administrators shall warrant and defend the above-granted premises, to the said-grantee, their heirs and assigns forever against the lawful claims and demands of all persons.

In Witness Whereof, the grantors above named, hereunto set their hands and seals this 13th day of June, 1918.

Witness to the execution hereof:

F. C. Wasserman, IRS \$1.50
W. H. Chatten, Cancelled.

Frank E. Andrews,

Seal.

Bessie E. Andrews,

Seal

State of Oregon, }
County of Multnomah, } SS

This Certifies, that on this 13th day of June, A. D. 1918, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Frank E. Andrews and Bessie E. Andrews, his wife, who are 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 as their free act and deed, for the uses and purposes therein expressed.

In Testimony Whereof, I have hereunto set my hand and notarial seal the day and year last above written.

(Seal of Notary.)

F. C. Wasserman,

Notary Public in and for Oregon.

My commission expires Dec. 6, 1920.

Filed and recorded July 1, 1918, at 4:45 P. M.

D. C. Boyles, County Recorder.

By L. Cochran, Deputy.

This Indenture Witnesseth, That I, E. B. Lowe, (Widower) for and in consideration of Ten & No/100 Dollars, to me paid, have bargained and sold, and by these presents do bargain and convey unto Anthony J. Rockhold and Anna Rockhold, his wife, and to the survivor thereof of the following described real estate, situate in Clackamas County, State of Oregon, to-wit: All of Lot One and Two, Block one hundred forty-six, as per the duly recorded plat thereof on file in the office of the Recorder of said County and State.

To Have and To Hold the said premises with appurtenances unto the said Anthony J. Rockhold and Anna Rockhold, their heirs and assigns forever. And I am the said E. B. Lowe, do hereby covenant to and with the said Anthony J. Rockhold and Anna Rockhold their heirs and assigns, that I am the owner in fee simple of said premises; that they are free from all incumbrances except a certain mortgage of \$1000.00 and sewer assessment of \$118.50 and that the grantors assume and agree to pay and that I will warrant and defend the same

KNOW ALL MEN BY THESE PRESENTS, That I, HARRY M. ROUNSEFELL

of Woring County of Clackamas State of Oregon,

in consideration of one hundred and valuable consideration Dollars

to me paid by HARRY M. ROUNSEFELL

of Woring County of Clackamas, State of Oregon,

have bargained and sold, and by these presents do grant, bargain, sell and convey unto said

HARRY M. ROUNSEFELL

an undivided one-half interest in all the following bounded and described real property, retaining to myself a like undivided one-half interest therein, situated in the County of Clackamas and State of Oregon; for the purpose of creating an estate in entirety between myself the grantor herein and my husband the grantees herein:

The Southwest quarter of the Northwest quarter of Section 3, Township 2 South, Range 3 East of the W.M., County of Clackamas, State of Oregon, except that portion lying within County Roads.

Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also my estate, right, title and interest, in and to the same.

To Have and to Hold, the above described and granted premises unto the said HARRY M. ROUNSEFELL forever

IN WITNESS WHEREOF, I the grantor above named hereunto set my hand and seal this 17th day of March, 19 61

Executed in the presence of

Harry M. Rounsefell (SEAL)

BOOK 585 PAGE 339

6410

STATE OF OREGON,

County of Multnomah

BE IT REMEMBERED, That on this 17th day of March, 1961, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named parties, to-wit:

That she to be the identical individual described in and who executed the within instrument and acknowledged to me that she executed the same freely and voluntarily.

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

Notary Public for Oregon.
My Commission expires 3-22-63

6410

DEED

Creating Estate in Entirety

(FORM No. 100)

RUTH A. KOUNSEFELL

TO

LARRY A. KOUNSEFELL

STATE OF OREGON, } ss.
County of Clatsop, }

I, Robert Schumacher, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clatsop, do hereby certify that the within instrument of writing was received for record and recorded in the records of

DEED

of said County at

1961 MAR 29

BOOK 585 PAGE 340

In Book

On Page

Witness my hand and seal of said Court affixed. ROBERT SCHUMACHER, County Clerk,

Recording Certificate Deputy.

BOOK 585 PAGE 340

KNOW ALL MEN BY THESE PRESENTS, That HARRY N. ROUNSEFELL and RUTH M. ROUNSEFELL, husband and wife, tenants by the entirety, hereinafter called the grantor, in consideration of ten and no/100 - - (\$10.00) (Consideration less than \$100.00 dollars, to grantor paid by JANICE E. ROUNSEFELL hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the State of Oregon and the county therein named below, described as follows, to-wit:

A tract of land situated in the Southwest quarter of the Northeast quarter of Section 3, Township 2 South, Range 3 East of the Willamette Meridian, more particularly described as follows: Beginning at a point in the South line of said legal subdivision which bears East 571.27 feet from the southwest corner of the Northwest quarter of said Section 3, thence continuing east along the South line of said legal subdivision 208.71 feet, thence north at right angles to said South line 208.71 feet, thence West parallel with the South line of said legal subdivision 208.71 feet, thence South 208.71 feet to the point of beginning, containing 1.00 acre; EACHT therefrom that portion lying within County Road 7892 (Henry Hoffmeister Road); Clackamas County, State of Oregon.

TL 500

To Have and to Hold the above described and granted premises unto the said grantee and grantee's heirs and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

and that grantor will and grantor's heirs, executors and administrators shall warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever. In construing this deed and where the context so requires, the singular includes the plural. WITNESS grantor's hand and seal this 16th day of May, 1966.

Harry N. Rounsefell (SEAL)
 Ruth M. Rounsefell (SEAL)
 (SEAL)
 (SEAL)

1085 23 4901
 STATE OF OREGON, County of Clackamas) ss. May 16, 1966
 Personally appeared the above named Harry N. Rounsefell and Ruth M. Rounsefell, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:
Howard H. Smith
 Notary Public for Oregon
 My commission expires Dec. 23, 1969

(SEAL)

No. 8054	WARRANTY DEED	STATE OF OREGON,)
	TO	
AFTER RECORDING RETURN TO <i>James J. Rounsefell</i> <i>241 Ave 387</i> <i>Boring</i>		DEED 1966 MAY 16 PM 4:00 In Book 673 PAGE 556 On Page Witness my hand and seal of said County affixed: ROBERT SCHUMACHER, County Clerk <i>Robert Schumacher</i> Deputy

BOOK 673 PAGE 556

KNOW ALL MEN BY THESE PRESENTS, That James L. Rounsefell, husband of Nancy J. Rounsefell, hereinafter called the grantor, in consideration of Ten and no/00 Dollars, to grantor, paid by Nancy J. Rounsefell, wife of James L. Rounsefell, hereinafter called the grantee,

does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Clackamas and State of Oregon, described as follows, to-wit: An undivided one-half of the following described real property:

A tract of land situated in the southwest one-quarter of the northwest one-quarter of Section 3, T. 2 S., R. 3 E. of the W.M., more particularly described as follows:

Beginning at a point in the south line of said legal subdivision which bears East 671.27 feet from the southwest corner of the northwest one-quarter of said Section 3; thence continuing East along the south line of said legal subdivision 208.71 feet; thence North at right angles to said south line 208.71 feet; thence West parallel with the south line of said legal subdivision 208.71 feet; thence South 208.71 feet to the point of beginning, EXCEPTING therefrom that portion lying within roads.

This deed is given for the express purpose of creating estate by the entirety between the grantor and grantee herein.

To Have and to Hold the above described and granted premises unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

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.

In construing this deed and where the context so requires, the singular includes the plural. WITNESS grantor's hand and seal this April 19 1967

James L. Rounsefell (SEAL)
Nancy J. Rounsefell (SEAL)
(SEAL)
(SEAL)

STATE OF OREGON, County of Clackamas ss. April 19 1967
Personally appeared the above named James L. Rounsefell, husband of Nancy J. Rounsefell and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:

Notary Public for Oregon
My commission expires

(OFFICIAL SEAL)

Recorded By Pioneer National Title Insurance Company

7800

1967

WARRANTY DEED

James L. Rounsefell

TO

Nancy J. Rounsefell

AFTER RECORDING RETURN TO

STATE OF OREGON,

STATE OF OREGON, County of Clackamas, ss. I, Robert Schumacher, County Clerk, Esq., 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 record and recorded in the records of

CLACKAMAS COUNTY CLERK

of said County of Clackamas

APR 18 1967

633 PAGE 694

On Page

In Book

Witness my hand and seal of said County of Clackamas, Oregon, this 18th day of April, 1967. ROBERT SCHUMACHER, County Clerk

Deputy

Recording Certificate

5768

633

RAV

BOOK 688 PAGE 694

Comparable Sales for Rounsefell Property Valuation

Larger Acreage Parcels

1798 /
ML#nonrmls, ~~23765~~ SE Highway 212
15.94 Acres, Closed 11/28/2005 average price \$87,000 per acre
Contract sale, development near, water and sewer close by

ML#000000, 23765 SE Highway 212
18.42 Acres, with small home, Closed 9/2004, \$53,745 per acre
Future development, possibly new city center area for Damascus

ML#6029462, 0 Zion Hill Drive
10.82 Acres, Closed 9/1/2006, \$44,824 per acre
Single building lot, spectacular view

ML#5066593, 16431 SE Royer Rd
10.01 Acres, Closed 9/7/2005, \$52,547 per acre
View property, not dividable at this time, home of no value

ML#5043596, 11390 SE 222nd Drive
14.00 Acres, 1 acre with home, shop, garage, valued at \$350,000
Level nursery land, future development ground, \$35,000 per acre

Acre Building Lots

ML#6002227, 13003 SE Burt Lane
1.0 Acre, Closed 4/2006, \$250,000.00 per acre

ML#5031331, 17980 SE Vogel
1.44 Acre, Closed 8/2005, \$250,000.00 per usable acre

ML#6074598, Parcel 2 tax lot 1700, Damascus
1.0 Acre, Closed 9/2006, \$240,000 per acre

No Photo Available

Presented By: Chris Olson
Burns & Olson Realtors Inc. Agent Full

RESIDENTIAL Status: SLD 11/30/2006 8:31:39 AM
ML#: 5043596 Area: 145 List Price: \$805,000
Addr: 11390 SE 222ND DR Unit#:
City: Gresham Zip: 97080 Condo Loc/Lvl:
Map Coord: 659/B/3 Zoning: efu List Type: EA LR: N
County: Clackamas Tax ID: 00143847
Elem: DEEP CREEK Middle: DAMASCUS
High: SAM BARLOW PropType: RESID
Nhood: #Image: 0
Legal: SECTION 34 TOWNSHIP 1S RANGE 3E QUARTER B TAX LOT 00800
Public Internet/Address Display: Y/N Offer/Nego:

GENERAL INFORMATION

Lot Size: 10-19.99AC
Waterfront:
River/Lake:

Acres: 14
View:
Seller Disc: DSCLOSUR

Lot Dimensions:
Lot Desc:
Other Disc:

RESIDENCE INFORMATION

Upper SQFT: 0 SFSrc: seller
Main SQFT: 2500 TotUp/Mn: 2500
Lower SQFT: 0 Parking:
Total SQFT: 2500 Roof:

#Bdrms/#Lvl: 4 / 1
Style: TRI-WDE
#Garage: 4 /
Exterior: CEDAR, LAP

Year Built: 1994 / APPROX
Home Wmty: 55+ w/Affidavit Y/N:
#Fireplaces: /
Bsmt/Fnd: CRAWLSP

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: / /
Kitchen: / /
Dining: / /
Family: / /

Mstr Bd: M / /
2nd Bd: / /
3rd Bd: / /

Baths - Full.Part
Upper Lvl: 0.0
Main Lvl: 2.0
Lower Lvl: 0.0
Total Bth: 2.0

REMARKS

XSt/Dir: 222nd north of tilstrom
Private: in house sale for comp purposes
Public:

FEATURES AND UTILITIES

Kitchen:
Interior:
Exterior:
Accessibility:
Cool:
Water: WELL

Hot Water:
Sewer: SEPTIC

Heat: FOR-AIR
Insul:

Fuel: ELECT

FINANCIAL

Property Tax/Yr: 2447.14
Terms: OTHER
Escrow Pref:
HOA Dues:
HOA Incl:

Spcl Asmt Balance:
HOA Dues-2nd:

Tax Deferral:
3rd Party: N
Rent, If Rented:

BAC: % 2.7
SAC: % 0

BROKER / AGENT DATA

BRCD: BUOL01 Office: Burns & Olson Realtors Inc.
LPID: BURNSWEN Agent: Wendy Burns
CoLPID: CoBRCD: CoAgent:

Phone: 503-658-2600 Fax: 503-558-1066
Phone: 503-706-4511 Cell/Pgr:
CoPh:

Agent E-mail: wendy@burnsandolson.com

ShowHrs: Tran: 6/21/2005 List: 3/3/2005 Exp: 6/21/2005 Occ: OWNER
LBHrs/Loc/Cmb: none Owner: sharon & arnie
Show: CALL-LA Tenant:

Poss:
Phone:
Phone:

COMPARABLE INFORMATION

Pend: 3/7/2005 DOM/CDOM: 4/
Sold: 6/16/2005 Terms: OTHER
SPID: OLSONCH S/Agnt: Chris Olson

O/Price: \$805,000
Sold Price: \$805,000
S/Off: BUOL01 S/Off Phone: 503-658-2600

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



Presented By: Chris Olson
 Burns & Olson Realtors Inc. **Agent Full**

RESIDENTIAL **Status:** SLD **11/30/2006** **8:31:39 AM**
ML#: 5066593 **Area:** 145 **List Price:** \$425,000

Addr: 16431 SE ROYER RD **Unit#:**
City: Clackamas **Zip:** 97015 **Condo Loc/Lvl:**
Map Coord: 689/A/2 **Zoning:** **List Type:** ER **LR:** N
County: Clackamas **Tax ID:** 00620368
Elem: DEEP CREEK **Middle:** DAMASCUS
High: SAM BARLOW **PropType:** RESID
Nhood: Damascus **#Image:** 8
Legal: TO2S R03E S9 QTSE 16SEC LOTS 1190/1100 Parcel 2
Public Internet/Address Display: Y/Y **Offer/Nego:**

GENERAL INFORMATION

Lot Size: 10-19.99AC **# Acres:** 10.01 **Lot Dimensions:** Irregular
Waterfront: **View:** **Lot Desc:** SECLDED, SLOPED, TREES
River/Lake: **Seller Disc:** EXEMPT **Other Disc:** LPB, Siding

RESIDENCE INFORMATION

Upper SQFT: 0 **SFSrc:** Metroscan **#Bdrms/#Lvl:** 2 / 2 **Year Built:** 1940 / FIXER
Main SQFT: 1144 **TotUp/Mn:** 1144 **Style:** FARMHSE **Home Wrnty:** N 55+ w/Affidavit Y/N: N
Lower SQFT: 1144 **Parking:** OFF-STR **#Garage:** 1 / DETACHD **#Fireplaces:** 1 / WOOD
Total SQFT: 2288 **Roof:** COMP **Exterior:** ALUM **Bsmt/Fnd:** FULLBAS, UNFIN

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M / 14 X 20 / COVED, FIREPL	Mstr Bd: M / 13 X 14 / HARDWOD	Baths - Full.Part
Kitchen: M / 12 X 17 / EATAREA, LAM-FW	2nd Bd: M / 11 X 12 /	Upper Lvl: 0.0
Dining: / /	3rd Bd: / /	Main Lvl: 1.0
Family: / /	UTILITY L / 12 X 25 / SINK	Lower Lvl: 0.1
BONUS L / 12 X 14 / BLT-INS		Total Bth: 1.1

REMARKS

XSt/Dir: Hwy 212 to Royer Road, S. to 16431
Private: Gorgeous pastoral acreage with nice farmhouse that needs TLC. Older barn and several outbuildings. Property cannot be split at this time, but may be have good investment potential-check with Clackamas County. Close to Damascus, 20 min. from Clackamas Town Center, I-205. Easy access to Hwy 212, Sunnyside Road, Foster Blvd.
Public: Gorgeous pastoral acreage. Farmhouse has good bones but needs your TLC. Older barn and several outbuildings. Possible investment potential-check with Clackamas County. Close to Damascus, 20 min. from Clackamas Town Center, I-205. Easy access to Hwy 212, Sunnyside Road, Foster Blvd.

FEATURES AND UTILITIES

Kitchen: DISHWAS, DISPOS, FS-RANG, FS-REFR
Interior: AIRCLEN, HARDWOD, WW-CARP
Exterior: BARN, FENCED, OUTBULD, SATDISH, TL-SHED, GRAVLRD, PRIVRD
Accessibility:
Cool: NONE **Hot Water:** ELECT **Heat:** FOR-AIR **Fuel:** OIL
Water: WELL **Sewer:** SEPTIC **Insul:**

FINANCIAL

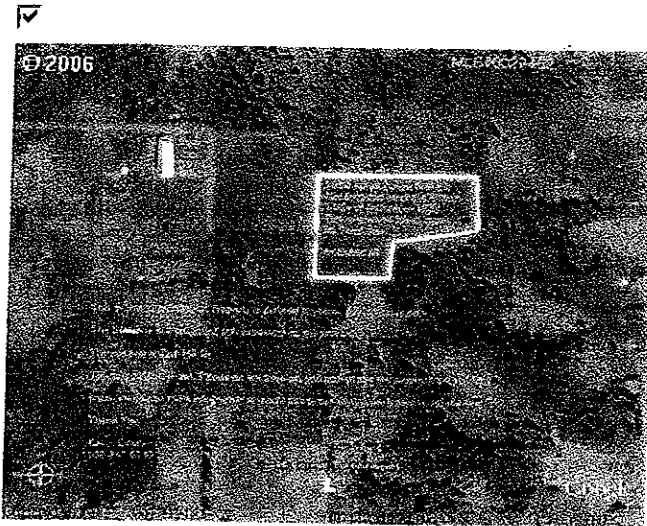
Property Tax/Yr: 1252.52 **Spcl Asmt Balance:** **Tax Deferral:** **BAC:** % 2.7V
Terms: CASH, CONV **3rd Party:** N **SAC:**
Escrow Pref: Transnation/Gresham **Rent, If Rented:**
HOA Dues: **HOA Dues-2nd:**

BROKER / AGENT DATA

BRCD: RGIC32 **Office:** Windermere/C&C Gresham **Phone:** 503-661-5200 **Fax:** 503-665-7007
LPID: SANTRYJO **Agent:** Joe Santry **Phone:** 503-256-4851 **Cell/Pgr:** 503-706-3103
CoLPID: **CoBRCD:** **CoAgent:** **CoPh:**
Agent E-mail: jsantry@windermere.com
ShowHrs: daylight **Tran:** 11/3/2005 **List:** 9/7/2005 **Exp:** **Occ:** VACANT **Poss:** CLOSING
LBHrs/Loc/Cmb: 24hr/back door **Owner:** Kielhorn TR **Phone:**
Show: RMLSLBX, VACANT **Tenant:** **Phone:**

COMPARABLE INFORMATION

Pend: 9/12/2005 **DOM/CDOM:** 5 / 5 **O/Price:** \$425,000
Sold: 11/2/2005 **Terms:** CONV **Sold Price:** \$526,000
SPID: SANTRYJO **S/Agt:** Joe Santry **S/Off:** RGIC32 **S/Off Phone:** 503-661-5200



Presented by: Chris Olson Agent Full
 Burns & Olson Realtors Inc.
LOTS AND LAND Status: SLD 11/30/2006 8:31:38 AM
 ML#: 6029462 Area: 144 List Price: \$499,950
 Address: 0 Zion Hill Dr.
 City: Gresham Zip: 97080
 Additional Parcels: /
 Map Coord: 659/F/4 Zoning: List Type: ER LR: N
 County: Clackamas Tax ID: 00148263
 Subdivision: CC&Rs: #Image: 1
 Manufhs Okay: Elem: EAST ORIENT Middle: WEST ORIENT
 High: SAM BARLOW Prop Type: FRM/FOR
 Legal: 266 FAIRMOUNT ORCHARDS PT LT 17
 Public Internet/Address Display: Y/Y Offer/Nego: LA-ONLY

GENERAL INFORMATION

Lot Size: 10-19.99AC Acres: 10.82
 Waterfront: N / River/Lake:
 Perc Test: N / RdFmtg: N
 Seller Disc: EXEMPT Other Disc:
 Lot Desc: PRIVATE, SECLDED, TREES, WOODED
 Topography: LEVEL, SLOPED
 Soil Cond: NATIVE

Lot Dimensions:
 Availability: SALE #Lots:
 Rd Surf: GRAVLRD
 View: MNTAIN, VALLEY
 Soil Type/Class:
 Present Use: TIMBER

IMPROVEMENTS

Utilities: NO-SEWR, POW-AVL, WAT-AVL
 Existing Structure: N /

REMARKS

XSt/Dir: Sunshine Valley to Zion Hill Dr access from lot 20
Private: 10.82 acres logged 25 yrs ago and replanted. Zoned RRRF-5 But within 1 mile Damascus UGB. Cannot be divided at this point..Owner maybe willing to hold Contract 20% down 7%int. with 5 year balloon. One of 4 lots with water rights from tower..Amazing views, with some clearing..Contact ne for more information.
Public: 10.82 acres logged 25 yrs ago and replanted. Zoned RRRF-5 But within 1 mile Damascus UGB. Cannot be divided at this point..Owner maybe willing to hold Contract 20% down 7% int.with 5 year balloon. One of 4 lots with water rights from tower..Amazing views, with some clearing..

FINANCIAL

Prop Tax/Yr: 7.7 Spcl Asmt Balance:
 Crop/Land Lease: Y Tax Deferral: Y BAC: % 2.7
 HOA Dues: HOA Dues-2nd: 3rd Party: N SAC:
 Terms: CASH, CONV, OWNCONT Escrow Preference:

BROKER / AGENT DATA

BRCD: BUOL01 Office: Burns & Olson Realtors Inc. Phone: 503-658-2600 Fax: 503-558-1066
 LPID: KPSMITH Agent: Kevin Smith Phone: 503-347-6710 Cell/Pgr:
 CoLPID: CoBRCD: CoAgent: CoPh:
 Agent E-mail: hdbugz@yahoo.com
 List: 4/20/2006 Exp: 10/31/2006 Show: CALL-LA Poss:
 Tran: 9/1/2006 Owner: Gillespie Phone:
 Tenant: Phone:

COMPARABLE INFORMATION

Pend: 5/31/2006 DOM/CDOM: 41 / 41 O/Price: \$499,950
 Sold: 8/31/2006 Terms: CASH / Sold Price: \$485,000
 SPID: KPSMITH S/Agt: Kevin Smith S/Off: BUOL01 S/Off Phone: 503-658-2600

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

Tax Full

Prev Next Print Revise Search Results Tax Full GO

Check All Uncheck All Checked Show All

1 Records

Presented by: **Chris Olson** 11/30/2006 8:49:55 AM
Burns & Olson Realtors Inc.

CLACKAMAS COUNTY, OR

Tax ID: 00605090
 Prop Addr:
 City/State/Zip:

Carrier Rt:

OWNER INFORMATION

Owner Name: SHELDON DEVELOPMENT INC
 Owner Addr: 23765 SE HIGHWAY 212
 City/State/Zip: DAMASCUS OR 97089-7249

Phone:
 Carrier Rt: R026

LAND INFORMATION

Lot SF: 802375

Acreage: 18.42

BUILDING INFORMATION

Year Built: 0
 Stories:
 # of Bldgs: 0
 Bldg Code:
 Fireplace:
 Foundation:
 Exterior Finish:

Bedrooms:
 Bathrooms: 0
 Living SF:
 Bldg SF: 0
 Bldg SF Ind:
 Bsmnt SF:

Parking SF:
 Heat Method:
 Roof Cover:
 Roof Type:
 Floor Cover:

SALES INFORMATION

	Deed Type	Sale Date	Sale Price	Document No
Current:	DEED OF TRUST	9/8/2004	\$990,000	000000083794
Prior:				

Title Co: CHICAGO TITLE INSURANCE COMPAN
 Lender: STERLING SVGS BK
 Loan Type: CONVENTIONAL

Vest Type:
 Loan Amt: \$500,000

TAX INFORMATION

Tax Year: 05-06	Land Val: \$231,595
Tax Amt: \$8,810.67	Impv Val: \$0
Levy Code: 026008	Total Val: \$231,595
Tax Rate: 13.664	

LEGAL INFORMATION

Prop Class: AGRICULTURAL
 Land Use: FARMS
 Map Page: 0
 Map Column:
 Map Row: 0

Map Code: 2S-3E-03-SE-SE
 Township: 02S
 Section: 03
 Range: 03E
 Qtr Section: SE
 16th Section: SE

Lot: 300
 Census Block:
 Census Track: 232012037

School Dist: SCH GRSHM/BRLW
 Nbrhd Code: 16064
 Subdiv Name:

Tax Full

1 Records

Presented by: **Chris Olson**
Burns & Olson Realtors Inc.

11/30/2006 8:52:07 AM

CLACKAMAS COUNTY, OR

Tax ID: 00614437
Prop Addr: 17981 SE HIGHWAY 212
City/State/Zip: DAMASCUS OR 97089-8964
Carrier Rt: R036

OWNER INFORMATION

Owner Name: SHELDON DEV INC
Owner Addr: 23765 SE HIGHWAY 212
City/State/Zip: BORING OR 97009-7249
Phone:
Carrier Rt: R006

LAND INFORMATION

Lot SF: 694346
Acreage: 15.94

BUILDING INFORMATION

Year Built: 1954	Bedrooms: 2	Parking SF: 688
Stories: 1	Bathrooms: 1	Heat Method: WALL
# of Bldgs: 1	Living SF: 1342	Roof Cover: COMPOSITION
Bldg Code: SINGLE FAMILY	Bldg SF: 1342	Roof Type: GABLE
Fireplace: 1	Bldg SF Ind: BUILDING	Floor Cover:
Foundation: CONCRETE	Bsmnt SF:	
Exterior Finish: CONCRETE BLOCK		

SALES INFORMATION

	Deed Type	Sale Date	Sale Price	Document No
Current:	DEED OF TRUST	11/28/2005	\$1,700,000	000000119677
Prior:		6/1/1987	\$0	

Title Co: WESTERN TITLE & ESCROW CO
Lender: PRIVATE INDIVIDUAL DAVIS TEMPA R TRUST (TR)
Loan Type: PRIVATE PARTY LENDER
Vest Type:
Loan Amt: \$1,300,000

TAX INFORMATION

Tax Year: 05-06	Land Val: \$329,069
Tax Amt: \$1,606.21	Impv Val: \$131,480
Levy Code: 012115	Total Val: \$460,549
Tax Rate: 13.351	

LEGAL INFORMATION

Prop Class: AGRICULTURAL	Map Code: 2S-3E-07-NE-SE	Lot: 600
Land Use: FARMS	Township: 02S	Census Block:
Map Page: 658	Section: 07	Census Track: 232023000
Map Column: G	Range: 03E	
Map Row: 7	Qtr Section: NE	
School Dist: SCH NO CLACK	16th Section: SE	
Nbrhd Code: 11094		
Subdiv Name:		

Tax Full

1 Records

Presented by: **Chris Olson** 11/30/2006 8:46:17 AM
Burns & Olson Realtors Inc.

CLACKAMAS COUNTY, OR

Tax ID: 00603500
Prop Addr: 13932 SE 222ND DR
City/State/Zip: DAMASCUS OR 97089-8375
Carrier Rt: R025

OWNER INFORMATION

Owner Name: SANDERS EVA M & SANDERS WARREN
Owner Addr: 15360 SW 100TH AVE
City/State/Zip: TIGARD OR 97224-4681
Phone:
Carrier Rt: C011

LAND INFORMATION

Lot SF: 553212
Acreage: 12.7

BUILDING INFORMATION

Year Built: 1925	Bedrooms: 4	Parking SF:
Stories: 1	Bathrooms: 1.1	Heat Method: FORCED AIR OIL
# of Bldgs: 1	Living SF: 2812	Roof Cover: COMPOSITION
Bldg Code: SINGLE FAMILY	Bldg SF: 2812	Roof Type: GABLE
Fireplace:	Bldg SF Ind: BUILDING	Floor Cover:
Foundation: CONCRETE	Bsmnt SF: 1076	
Exterior Finish: WOOD		
SHAKE/SHINGLE		

SALES INFORMATION

	Deed Type	Sale Date	Sale Price	Document No
Current:	DEED OF TRUST	11/18/2004	\$620,000	000000111098
Prior:				

Title Co: FIRST AMERICAN TITLE INS CO/OR
Lender: UMPQUA BK
Loan Type: CONVENTIONAL
Vest Type:
Loan Amt: \$277,700

TAX INFORMATION

Tax Year: 05-06	Land Val: \$186,147
Tax Amt: \$2,212.22	Impv Val: \$61,740
Levy Code: 026009	Total Val: \$247,887
Tax Rate: 13.664	

LEGAL INFORMATION

Prop Class: AGRICULTURAL		
Land Use: AGRICULTURAL (NEC)		
Map Page: 659	Map Code: 2S-3E-03	Lot: 2500
Map Column: B	Township: 02S	Census Block:
Map Row: 6	Section: 03	Census Track: 232012037
	Range: 03E	
School Dist: SCH GRSHM/BRLW	Qtr Section:	
Nbrhd Code: 16064	16th Section:	



RESIDENTIAL
MLS#: 6002227
Addr: 13003 SE Burt LN
City: Boring
Map Coord: 659/J/5
County: Clackamas
Elem: BORING
High: SANDY
Nhood:
Legal: to follow
Public Internet/Address Display: Y/N

Status: SLD
Area: 145
Zip: 97009
Zoning:
Tax ID: 01487689

11/19/2006
List Price: \$249,950
Unit#:
Condo Loc/Lvl:
List Type: ER LR: N
Middle: BORING
PropType: RESID
#image: 4
Offer/Nego:

GENERAL INFORMATION

Lot Size: 1-2.99AC
Waterfront:
River/Lake:

Acres: 1
View:
Seller Disc: DSCLOSUR

Lot Dimensions:
Lot Desc: LEVEL
Other Disc:

RESIDENCE INFORMATION

Upper SQFT: 0
Main SQFT: 1300
Lower SQFT: 0
Total SQFT: 1300

SFSrc: Seller
TotUp/Min: 1300
Parking: OFF-STR
Roof: COMP
#Bdms/#Lvl: 3/1
Style: DBL-WDE
#Garage: 0 /
Exterior: OTHER

Year Built: 1995 /
Home Wmnty: N 55+ w/Affidavit Y/N:
#Fireplaces: 0/
Bsmt/Fnd: CRAWLSP

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M / /
Kitchen: M / /
Dining: M / /
Family: / / /

Mstr Bd: M / / BATH
2nd Bd: M / /
3rd Bd: M / /

Baths - Full.Part
Upper Lvl: 0.0
Main Lvl: 2.0
Lower Lvl: 0.0
Total Bth: 2.0

REMARKS

(S/Dir: Hwy 212 to Burt Lane
Private: Updated manufactured home on rare level acre in Boring. New carpet, windows and paint. Would make a great building site too. Agent is owner/seller. Septic leach lines have been uncovered for county to approve a different building site. Septic is in Good working order!
Public: Gorgeous one acre in a neighborhood of \$600K+ homes, Paved road, large trees, with a small creek! Home has an open floor plan w/skylights, vaulted living room, new carpet and paint. Live in mobile while you build or just enjoy the simple life!

FEATURES AND UTILITIES

Kitchen: DISHWAS, FS-RANG, FS-REFR
Exterior: WW-CARP
Exterior: PORCH, RV-PARK
Accessibility: 1LEVEL
Pool: HT-PUMP
Water: PUBLIC

Hot Water: ELECT
Sewer: SEPTIC
Heat: FOR-AIR
Insul: CODE
Fuel: ELECT

FINANCIAL

Property Tax/Yr: 1219
Terms: CASH, CONV
Group Pref: PNWT/Sunny/Crenshaw
HOA Dues:
HOA Incl:

Spcl Asmt Balance:
Tax Deferral:
3rd Party: N
Rent, If Rented:

BAC: % 2.5
SAC:

BROKER / AGENT DATA

CD: BUOL01
D: BURNSWEN
LPID:
Agent E-mail: wendy@burnsandolson.com
whrs: cleared
irs/Loc/Cmb: front door
w: RMLS LBX, VACANT

Office: Burns & Olson Realtors Inc.
Agent: Wendy Burns
CoBRCD:
CoAgent:

Phone: 503-658-2600
Phone: 503-706-4511
Fax: 503-558-1066
Cell/Pgr:
CoPh:

Tran: 4/27/2006
List: 7/21/2005
Exp: 12/21/2006
Occ: VACANT
Poss: IMMED
Owner: Burns
Tenant:

COMPARABLE INFORMATION

d: 3/14/2006
i: 4/25/2006
s: JUNGKELL

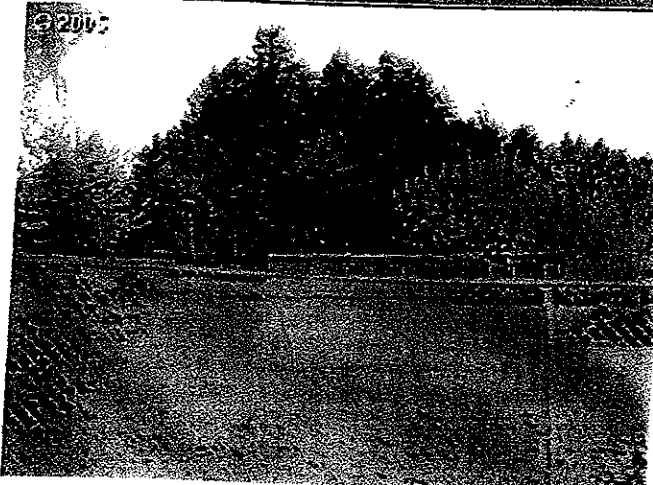
DOM/CDOM: 236 / 236
Terms: CONV
S/Agt: Kelli Jung

O/Price: \$249,950
Sold Price: \$250,000
S/Off: EQTY85

S/Off Phone: 503-666-2020

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Resolution No. 07-3775
 Attachment 42
 HOME REMOVED, BUILDING LOT ONLY



Presented by: Chris Olson
 Bums & Olson Realtors Inc. Agent Full
LOTS AND LAND Status: SLD 11/19/2006 6:21:34 PM
 ML#: 5031331 Area: 145 List Price: \$255,000
 Address: 17980 SE VOGEL-reduced RD
 City: Boring Zip: 97009
 Additional Parcels: /
 Map Coord: 658/G/5 Zoning: List Type: ER LR: N
 County: Clackamas Tax ID: 00610878
 Subdivision:
 Manufns Okay: CC&Rs: #image: 1
 Elem: OREGON TRAIL Middle:
 High: CLACKAMAS Prop Type: RESID
 Legal: 1990-62 PARTITION PLAT PARCEL 1
 Public Internet/Address Display: Y/N Offer/Nego:

GENERAL INFORMATION

Lot Size: 1-2.99AC Acres: 1.44
 Waterfront: / River/Lake:
 Perc Test: / RdFmrg:
 Seller Disc: Other Disc:
 Lot Desc: TREES, WOODED
 Topography: LEVEL, ROLLING
 Soil Cond:

Lot Dimensions:
 Availability: SALE #Lots:
 Rd Surf:
 View: VALLEY
 Soil Type/Class:
 Present Use: RESIDNC

IMPROVEMENTS

Utilities: SEPTIC, WAT-AVL, WELL
 Existing Structure: Y / MOBL-HM, NO-VALU, UTLSHED

REMARKS

KS/Dir: 172nd to east on Vogel, or Foster to west on Vogel
 Private: New Price Again! Motivated Seller!!! 1.44 acres with in the UGB! Beautiful building site in area of large homes. Many possibilities! Buyer to verify. Large trees. Timber value! Mobile home is livable but of no value. Public water + capped well. Call agent to view interior of home.
 Public: 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.

FINANCIAL

Prop Tax/Yr: 937.7 Spcl Asmt Balance:
 Prop/Land Lease: Tax Deferral: BAC: % 2.25
 DA Dues: HOA Dues-2nd: 3rd Party: N SAC:
 DA Incl:
 Terms: CASH, CONV Escrow Preference: Fidelity Or City

BROKER / AGENT DATA

BCD: BUOL01 Office: Bums & Olson Realtors Inc. Phone: 503-658-2600 Fax: 503-558-1066
 ID: CANELSON Agent: Buzi Nelson Phone: 503-318-5784 Cell/Pgr: 503-318-5784
 LPID: WATSONDL CoBRCD: BUOL01 CoAgent: Dan Watson CoPh: 503-539-3363
 Agent E-mail: buzinelson@bumsandolson.com
 Exp: 5/9/2005 Exp: 10/12/2005 Show: CALL-LA
 In: 8/11/2005 Owner: willenberg
 Tenant: Phone:

COMPARABLE INFORMATION

nd: 6/10/2005 DOM/CDOM: 32 / 59 O/Price: \$279,900
 ld: 8/9/2005 Terms: CONV / Sold Price: \$250,000
 ID: ZAHARCHO S/Ag: Vladimir Zaharchook S/Off: PRNW07 S/Off Phone: 503-292-9393

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

HOME REMOVED BUILDING ← LOT ONLY

No Photo Available

Presented by: Chris Olson Agent Full
Burns & Olson Realtors Inc.
LOTS AND LAND Status: SLD 11/20/2006 2:27:21 PM
ML#: 6074598 Area: 145 List Price: \$259,000
Address: Parcel 2 Tax Lt 1700
City: Damascus Zip: 97089
Additional Parcels: /
Map Coord: 659/B/5 Zoning: List Type: ER LR: N
County: Clackamas Tax ID: Not Found
Subdivision:
Manufhs Okay: CC&Rs: #Image:
Elem: DEEP CREEK Middle:
High: SAM BARLOW Prop Type: RESID
Legal: Parcel 2 Staley add Lt 1700
Public Internet/Address Display: Y/Y Offer/Nego:

GENERAL INFORMATION

Lot Size: 1-2.99AC Acres: 1
Waterfront: / River/Lake:
Perc Test: / RdFrmtg: N
Seller Disc: Other Disc:
Lot Desc: CLEARED, PRIVATE
Topography: LEVEL
Soil Cond:

Lot Dimensions: 201 X 174
Availability: SALE #Lots:
Rd Surf:
View: TERRITR
Soil Type/Class:

Present Use:

IMPROVEMENTS

Utilities: POWER
Existing Structure: N /

REMARKS

XSt/Dir: Hwy 212/224 to SE 222 N to Bohna, Right to Staley lot on right.
Private:
Public: Seasonal Creek at Rear Corner of Property.

FINANCIAL

Prop Tax/Yr: 383 Spcl Asmt Balance: Tax Deferral: BAC: % 2.25
Crop/Land Lease: 3rd Party: N SAC:
HOA Dues: HOA Dues-2nd:
HOA Incl:
Terms: CASH, CONV Escrow Preference:

BROKER / AGENT DATA

BRCD: KWEP01 Office: Keller Williams Realty E Port Phone: 503-496-5151 Fax: 503-496-5111
LPID: ALVESSTE Agent: Steven Alves Phone: 503-680-2392 Cel/Pgr:
CoLPID: CoBRCD: CoAgent: CoPh:
Agent E-mail: salves1011@aol.com
List: 8/23/2006 Exp: Show: VACANT Poss: IMMED
Tran: 9/30/2006 Owner: Hayden Phone:
Tenant:

COMPARABLE INFORMATION

Pend: 9/8/2006 DOM/CDOM: 16 / O/Price: \$259,000
Sold: 9/26/2006 Terms: CONV / Sold Price: \$240,000
SPID: MITCH S/Ag: Donna Mitchell S/Off: DAMB01 S/Off Phone: 503-698-6600

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SCHOOL AVAILABILITY SUBJECT TO CHANGE.

CLOSED 9/2006 \$240,000 -
JR ACRE

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE)	
SECTIONS 3.07.120, 3.07.130 AND 3.07.1120;)	Ordinance No. 07-1137A
ADDING METRO CODE SECTION 3.07.450 TO)	
ESTABLISH A PROCESS AND CRITERIA FOR)	Introduced by Chief Operating Officer
CHANGES TO THE EMPLOYMENT AND)	Michael J. Jordan, with the concurrence of
INDUSTRIAL AREAS MAP; AND DECLARING AN)	Council President David Bragdon
EMERGENCY)	

WHEREAS, Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (“UGMFP”) prescribes limitations on certain uses in Industrial Areas, Regionally Significant Industrial Areas and Employment Areas and makes reference to an “Employment and Industrial Areas Map,” which depicts the boundaries of these areas for regulatory purposes; and

WHEREAS, the Metro Council wishes to provide a process and criteria for making changes to the designations of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas on the Title 4 Employment and Industrial Areas Map; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the proposed amendments and recommends their approval; and

WHEREAS, the Council held a public hearing on the proposed amendments on January 18, 2007, and considered public comment on the amendments; now, therefore,

THE METRO COUNCIL ORDAINS as follows:

SECTION 1. Metro Code Sections 3.07.120 and 3.07.130 are amended to read as follows: Sections 3.07.120 and 3.07.130 of Title 1 (Requirements for Housing and Employment Accommodation) of the UGMFP are hereby amended as shown in Exhibit A, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

SECTION 2. Metro Code Section 3.07.450 is amended to read as follows: Section 3.07.450 is hereby added to Title 4 (Industrial and Other Employment Areas) of the UGMFP as shown in Exhibit B, attached and incorporated into this ordinance, to prescribe a process and criteria for amendments to the Employment and Industrial Areas Map.

SECTION 3. Metro Code Section 3.07.1120 is amended to read as follows: Section 3.07.1120 of Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended as shown in Exhibit C, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

SECTION 4. The Findings of Fact and Conclusions of Law in Exhibit D, attached and incorporated into this ordinance, explain how these amendments comply with Metro’s Regional Framework Plan and state land use planning laws.

SECTION 5. This ordinance is necessary for the immediate preservation of public health, safety and welfare because, without this ordinance, there is no clear process for amending the Employment and Industrial Areas Map in Title 4 of the UGMFP and no specific criteria for such amendments. Metro has received a number of requests from local governments for amendments that involve economic development and need immediate attention. This ordinance provides a process and criteria for amendments to the map. Therefore, a emergency is declared to exist. This ordinance shall take effect immediately, pursuant to section 39(1) of the Metro Charter.

ADOPTED by the Metro Council this ___ day of _____, 2007.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 07-1137A
Amendments to Title 1 of the Urban Growth Management Functional Plan

TITLE 1: REQUIREMENTS FOR HOUSING AND EMPLOYMENT ACCOMMODATION

3.07.120 Housing and Employment Capacity

- A. Each city and county shall determine its capacity for housing and employment in order to ensure that it provides and continues to provide at least the capacity for the city or county specified in Table 3.07-1, supplemented by capacity resulting from addition of territory to the UGB. Local governments shall use data provided by Metro unless the Metro Council or the Chief Operating Officer determines that data preferred by a city or county is more accurate.
- B. A city or county shall determine its capacity for dwelling units by cumulating the minimum number of dwelling units authorized in each zoning district in which dwelling units are authorized. A city or county may use a higher number of dwellings than the minimum density for a zoning district if development in the five years prior to the determination has actually occurred at the higher number.
- C. If a city annexes county territory, the city shall ensure that there is no net loss in regional housing or employment capacity, as shown on Table 3.07-1, as a result of amendments of comprehensive plan or land use regulations that apply to the annexed territory.
- D. After completion of its initial determination of capacity, each city or county shall report changes in its capacity by April 15 of the first calendar year following completion of its initial determination and by April 15 of every following year.

Deleted: 3.01-7

3.07.130 Design Type Boundaries Requirement

For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map or on maps adopted by ordinances adding territory to the UGB:

Central City--Downtown Portland is the Central City which serves as the major regional center, an employment and cultural center for the metropolitan area.

Regional Centers--Seven regional centers will become the focus of compact development, redevelopment and high-quality transit service and multimodal street networks.

Station Communities--Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature a high-quality pedestrian environment.

Town Centers--Local retail and services will be provided in town centers with compact development and transit service.

Main Streets--Neighborhoods will be served by main streets with retail and service developments served by transit.

Corridors--Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities.

Employment Areas--Various types of employment and some residential development are encouraged in employment areas with limited commercial uses.

Industrial Areas--Industrial areas are set aside primarily for industrial activities with limited supporting uses.

Regionally Significant Industrial Areas--Industrial areas with site characteristics that are relatively rare in the region that render them especially suitable for industrial use.

Inner Neighborhoods--Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes are inner neighborhoods.

Outer Neighborhoods--Residential neighborhoods farther away from large employment centers with larger lot sizes and lower densities are outer neighborhoods.

Exhibit B to Ordinance No. 07-1137A
Amendments to Title 4 Of the Urban Growth Management Functional Plan

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

Add the following section:

3.07.450 Employment and Industrial Areas Map

- A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.
- B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.
- C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by Title 4 upon a demonstration that:
 - 1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
 - 2. The amendment will not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;
 - 3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
 - 4. The amendment would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan, or exceed volume-to-capacity ratios on Table 7 of the 1999

Oregon Highway Plan for state highways, unless mitigating action is taken that will restore performance to RTP and DHP standards within two years after approval of uses;

Deleted: and would not require added road capacity to stay within the standards or ratios

5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and
6. If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by Title 4 upon a demonstration that:

1. The entire property is not buildable due to environmental constraints; or
2. The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and
3. The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by Title 4, exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The Chief Operating Officer shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

Deleted: D

E. After consultation with Metropolitan Policy Advisory Committee, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land,

Deleted: E

as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.

G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

~~H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:~~

Deleted: F

Deleted: T

Deleted: at any time

Deleted: better achieve the policies of the Regional Framework Plan

1. Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;
2. Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan, or exceed volume-to-capacity ratios on Table 7 of the 1999 Oregon Highway Plan for state highways, unless mitigating action is taken that will restore performance to RTP and DHP standards within two years after approval of uses;
3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
4. Would not reduce the integrity or viability of a traded sector cluster of industries;
5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

Deleted: and would not require added road capacity to stay within the standards or ratios

~~I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.~~

Deleted: G

J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.

Deleted: H

K. By January 31 of each year, the Chief Operating Officer (COO) shall submit a written report to the Council and the Metropolitan Policy Advisory Committee on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

Deleted: I

Exhibit C to Ordinance No. 07-1137A
Amendments to Title 11 of the Urban Growth Management Functional Plan

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1120. Planning for Territory Added to the UGB

Deleted: Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory added to the UGB as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

Deleted: Urban Growth Boundary

A. Specific plan designation boundaries derived from the general boundaries of design type designations assigned by the Council in the ordinance adding the territory to the UGB.

B. Provision for annexation to the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services.

Deleted: A

C. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or such other densities that the Council specifies pursuant to section 3.01.040 of the Urban Growth Management Functional Plan.

Deleted: B

D. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.

Deleted: c

E. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined

Deleted: D

permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.

F. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.

Deleted: E

G. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

Deleted: F

H. Identification and mapping of areas to be protected from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation, including, without limitation, all Habitat Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas, and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include zoning strategies to avoid and minimize the conflicts between planned future development and the protection of Habitat Conservation Areas, Water Quality Resource Areas, Flood Management Areas, and other natural hazard areas. The plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, and easement dedication to ensure that all significant natural resources are protected.

Deleted: G

I. A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

Deleted: H

| ~~J.~~ A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts. Deleted: i

| ~~K.~~ An urban growth diagram for the designated planning area showing, at least, the following, when applicable: Deleted: j

1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;
3. Location of Habitat Conservation Areas;
4. General locations for mixed use areas, commercial and industrial lands;
5. General locations for single and multi-family housing;
6. General locations for public open space, plazas and neighborhood centers; and
7. General locations or alternative locations for any needed school, park or fire hall sites.

| L. A determination of the zoned dwelling unit capacity of zoning districts that allow housing.

| ~~M.~~ The plan amendments shall be coordinated among the city, county, school district and other service districts. Deleted: k

Exhibit D to Ordinance No. 07-1137^A
Findings of Fact and Conclusions of Law

Ordinance No. 07-1137 amends various provisions of the Urban Growth Management Functional Plan (UGMFP) in order to establish a process and criteria for amendments to the Employment and Industrial Areas Map of Title 4 (Industrial and Other Employment Areas). The ordinance also clarifies the process for adjusting UGMFP maps and tables (housing and employment capacities) following completion of planning under Title 11 (Planning for New Urban Areas) of territory added to the UGB. The practical effects of these changes are as follows:

- Title 4 now provides specific procedures for changes to Title 4's Employment and Industrial Areas Map, some of which are initiated by cities and counties and others by the Metro Council
- Title 4 now provides specific criteria derived from the policies of the Regional Framework Plan for review of proposed changes to the Employment and Industrial Areas Map
- Titles 1 and 11 more clearly set forth the process for bringing maps and tables of the UGMFP into conformance with city and county planning under Title 11 of territory newly added to the UGB. The Metro Council assigns general design-type designations to the territory in the ordinance which adds the territory to the UGB. The city or county responsible for planning the new territory develops comprehensive plan and zoning designations that generally conform to Metro's design-type designation. After adoption by the city or county, Metro conforms UGMFP maps and tables to the local maps.

Ordinance No. 07-1137 does not change any of the regulatory boundaries contained in the maps. The ordinance, therefore, does not change requirements under the functional plans as they apply to any particular property under Metro's jurisdiction.

I. STATEWIDE PLANNING GOALS

Statewide Planning Goal 1 – Citizen Involvement: Metro provided notice of the proposed amendments to stakeholders and the general public by following the notification requirements in its acknowledged code. Metro provided notice to the Oregon Department of Land Conservation and Development Commission as provided in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee (MPAC), which sought the advice of its Metropolitan Technical Advisory Committee (MTAC). On January 18, 2007, the Metro Council held a public hearing on the proposed ordinance. The Council concludes that these activities conform to Metro's code and policies on citizen involvement and comply with Goal 1.

Statewide Planning Goal 2 – Land Use Planning: Metro sought and received comment from the local governments and special districts that comprise the metropolitan region. The Metro Charter establishes MPAC, composed principally of representatives of local governments, special districts and school districts in the region, and requires the Metro Council to seek its advice on amendments to the Regional Framework Plan and its components, such as the

UGMFP. MPAC reviewed Ordinance No. 07-1137 and recommended revisions to the draft, some of which the Council adopted. The Council concludes that the ordinance complies with Goal 2.

Statewide Planning Goal 3 – Agricultural Lands: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the maps have no regulatory effect outside the UGB, the Council concludes that Goal 3 does not apply to the amendments.

Statewide Planning Goal 4 – Forest Lands: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the maps have no regulatory effect outside the UGB, the Council concludes that Goal 4 does not apply to the amendments.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the amendments made by the ordinance do not change the boundaries on any map that applies to resources protected by Goal 5, the Council concludes that the ordinance is consistent with Goal 5.

Statewide Planning Goal 6 – Air, Land and Water Resources Quality: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect resources protected by Goal 6. The Council concludes, therefore, that the amendments are consistent with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect areas subject to natural disasters and hazards. The Council concludes, therefore, that the amendments are consistent with Goal 7.

Statewide Planning Goal 8 – Recreational Needs: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect recreational needs. The Council concludes, therefore, that the amendments are consistent with Goal 8.

Statewide Planning Goal 9 – Economic Development: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The ordinance does not change any of the regulatory boundaries contained in the maps and, therefore, does not change requirements under the functional plans as they apply to any particular industrial or employment land. Thus, although Goal 9 does not apply to Metro, the Council concludes that the ordinance is consistent with the goal.

Statewide Planning Goal 10 – Housing: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The ordinance does not apply to land available for housing. The Council concludes that Goal 10 does not apply to the amendments.

Statewide Planning Goal 11 – Public Facilities and Services: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 11 will apply to proposed changes to the Title 4 map pursuant to this ordinance, but this ordinance itself does not amend or affect any public facility plan. The Council concludes that the amendments are consistent with Goal 11.

Statewide Planning Goal 12 – Transportation: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 12 will apply to proposed changes to the Title 4 map pursuant to this ordinance, but this ordinance itself does not amend or affect the Regional Transportation Plan or any city or county transportation system plan. The Council concludes that the amendments are consistent with Goal 12.

Statewide Planning Goal 13 – Energy Conservation: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect energy resources. The Council concludes, therefore, that the amendments are consistent with Goal 13.

Statewide Planning Goal 14 – Urbanization: Goal 14 governs the establishment and change of UGBs. Ordinance No. 07-1137 does not apply outside the UGB and does not apply to changes to the UGB. Goal 14 also requires management of “urbanizable land” within UGBs “...to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.” The ordinance does not change any of the regulatory

boundaries contained in the maps. For these reasons, the Council concludes that the amendments are consistent with Goal 14.

Statewide Planning Goal 15 – Willamette River Greenway: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 15 will apply to proposed changes to the Title 4 map pursuant to this ordinance for land that lies within the greenway, but this ordinance itself does not change any of the regulatory boundaries contained in the maps and, therefore, does not change requirements under the functional plans as they apply to any particular industrial or employment land. The Council concludes that the amendments are consistent with Goal 15.

II. REGIONAL FRAMEWORK PLAN

Policy 1.4 – Economic Opportunity: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.4 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.4.

Policy 1.5 – Economic Vitality: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.5 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.5.

Policy 1.13 – Participation of Citizens: The public involvement actions described above under Statewide Planning Goal 1 comply with Metro’s code and Policy 1.13.

Policy 1.15 – Centers: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive

in part from Policy 1.15 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.15.

Policies 2.20 – Regional Freight System – and 2.21 – Regional Freight System Investments: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Changes to the map and to subsequent land uses can have significant effects on the regional freight system. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policies 2.20 and 2.21 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with these policies.

Because Ordinance No: 07-1137 does not make any changes to design-type designations or the Title 4 map itself and addresses only process and criteria for future amendments to the Title 4 Employment and Industrial Areas Map, the following policies of the Regional Framework Plan do not apply to the ordinance:

- Policy 1.1 – Urban Form
- Policy 1.2 – Built Environment
- Policy 1.3 – Affordable Housing
- Policy 1.6 – Growth Management
- Policy 1.7 – Urban/Rural Transition
- Policy 1.8 – Developed Urban Land
- Policy 1.9 – Urban Growth Boundary
- Policy 1.10 – Urban Design
- Policy 1.11 – Neighbor Cities
- Policy 1.12 – Protection of Agriculture and Forest Resource Land
- Policy 1.16 – Residential Neighborhoods

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1137, FOR THE PURPOSE OF AMENDING METRO CODE SECTIONS 3.07.120, 3.07.130 AND 3.07.1120; ADDING METRO CODE SECTION 3.07.450 TO ESTABLISH A PROCESS AND CRITERIA FOR CHANGES TO THE EMPLOYMENT AND INDUSTRIAL AREAS MAP; AND DECLARING AN EMERGENCY

Date: January 12, 2007

Prepared by: Richard Benner

BACKGROUND

Title 4 of the Urban Growth Management Functional Plan (UGMFP) places some limitations on uses and land divisions in Regionally Significant Industrial Areas (RSIAs), Industrial Areas and Employment Areas. The Title 4 “Employment and Industrial Areas Map” sets the boundaries of those 2040 Growth Concept design type designations and determines which land in the region is subject to Title 4 limitations. Local governments in the region rely upon the map to bring their comprehensive plans and land use regulations into compliance with Title 4. From time to time, a city or county wants to change its plan or zone designation for land on the Title 4 map. To remain in compliance with the UGMFP, these changes usually require an amendment to the map.

In recent weeks, Metro has received letters from cities requesting changes to the Title 4 map in order for those cities to allow uses on the subject properties that do not comply with Title 4. Also, the Metro Planning Department maintains an informal list of proposed map changes suggested by city and county planning departments. Neither Title 4 itself nor other provisions of the UGMFP provide a process or criteria to guide Metro Council review of these requests. In the absence of a specific process, all such requests require the Council to adopt an ordinance, through its customary process, to amend the Title 4 map, regardless how large or small, significant or insignificant. Because neither Title 4 itself nor the Regional Framework Plan (RFP) specifies criteria or particular policies in the RFP to guide consideration of proposed Title 4 map amendments, it is unclear which policies of the RFP apply to the request. Because the policies of the RFP are general in nature, cities and counties, landowners and the Council itself, face a large degree of uncertainty when considering a proposal.

Proposed Ordinance No. 07-1137 addresses these issues by providing procedures and criteria for consideration of proposed amendments to the map. The ordinance offers two procedures for map amendments. Smaller proposals (based upon size of the subject property) are left for cities and counties to decide on their own. Metro can participate in city or county land use hearing to express any concerns it has. If a city or county makes an amendment, Metro later conforms the Title 4 map to the local change. Larger proposals come to the Metro Council for consideration. In addition, the Council remains free to consider changes to the map – to make small adjustment or correct errors, for example – at any time, as it has done in the past. The ordinance also provides criteria to guide these local and Council decisions. The criteria are derived from the policies of the RFP and the preface to Title 4.

The proposed amendments to Title 1 (Requirements for Housing and Employment Accommodation) and Title 11 (Planning for New Urban Areas) conform those titles to the amendments to Title 4 and clarify the process for adding land to the Title 4 map following local planning for new urban areas under Title 11.

ANALYSIS/INFORMATION

1. Known Opposition: Two principal issues have been raised by some cities, counties and stakeholders with the proposed ordinance and previous versions of it:
 - Sending any proposed map amendments to the Metro Council means there will be decisions at two levels – local and regional – subject to two sets of criteria and two potential appeals to LUBA. This, of course, is an issue with the current situation as well.
 - The criteria are seen as either too strict, meaning few proposed map amendments will meet them and prevent appropriate changes, or too lenient, meaning many amendments will meet them and inappropriately reduce the employment land base.
2. Legal Antecedents: The Metro Council adopted Title 4 and the Employment and Industrial Areas Map in 1996 as part of the UGMFP. The Council amended Title 4 and the map on December 5, 2002, to establish RSIA's. Statewide Planning Goal 14 requires Metro to ensure capacity for employment within the UGB. Changes to the process or criteria for Title 4 maps amendments may indirectly raise issues over the adequacy of the UGB's employment capacity.
3. Anticipated Effects: Adoption of the ordinance would likely speed the consideration of proposed amendment of the Title 4 map, reduce the number of changes that must come to the Metro Council for decision, reduce the uncertainty over criteria for decision-making, and reduce the number of appeals to LUBA. Adoption of the ordinance is unlikely to raise issues under Goal 14, although decisions on specific proposed map amendments may.
4. Budget Impacts: Adoption of the ordinance would likely reduce local and Metro costs of processing proposed amendments to the Title 4 map.

RECOMMENDED ACTION

Adopt Ordinance No. 07-1137, after consideration of amendments to the ordinance that may be recommended by MPAC at its January 24, 2007, meeting.