



METRO

Agenda

MEETING: METRO COUNCIL
DATE: April 5, 2007
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the March 29, 2007 Metro Council Regular Meeting.

4. RESOLUTIONS

4.1 **Resolution No. 07-3790**, Authorizing Metro to Apply for a Local Government Hosticka Grant from the Oregon Parks and Recreation Department and Delegating Authority to the Parks and Greenspaces Director to sign the application.

4.2 **Resolution No. 07-3791**, For the Purpose of Entering an Order Relating to the Robert and Susan Claus Claim For Compensation Under ORS 197.352 (Measure 37).

4.3 **Resolution No. 07-3796**, For the Purpose of Entering An Order Relating to the Patricia A. Lawrence Claim for Compensation under ORS 197.352 (Measure 37)

5. CHIEF OPERATING OFFICER COMMUNICATION

6. COUNCILOR COMMUNICATION

ADJOURN

COUNCIL BUDGET WORK SESSION TO FOLLOW (Council Annex)

Television schedule for April 5, 2007 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.tvctv.org -- (503) 629-8534 2 p.m. Thursday, April 5 (live)	Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, April 8 2 p.m. Monday, April 9
Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, April 9	Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, April 7 11 p.m. Sunday, April 8 6 a.m. Tuesday, April 10 4 p.m. Wednesday, April 11
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.

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).

BEFORE THE METRO COUNCIL

AUTHORIZING METRO TO APPLY FOR A LOCAL) RESOLUTION NO. 07-3790
GOVERNMENT GRANT FROM THE OREGON PARKS)
AND RECREATION DEPARTMENT AND DELEGATING) Introduced by Chief Operating Officer
AUTHORITY TO THE PARKS AND GREENSPACES) Michael Jordan, with the concurrence of
DIRECTOR TO SIGN THE APPLICATION) Council President David Bragdon

WHEREAS, the Oregon State Parks and Recreation Department is accepting applications for the Local Government Grant Program; and

WHEREAS, Metro Regional Parks and Greenspaces desires to participate in this grant program to the greatest extent possible as a means of providing needed park and facilities improvements at Cooper Mountain Nature Park in accordance with the "Cooper Mountain Master Plan and Management Recommendations;" and

WHEREAS, the Metro Council adopted and approved the Cooper Mountain Master Plan and Management Recommendations on December 1, 2005 through Resolution No. 05-3643, "For the Purpose of Approving the Cooper Mountain Master Plan and Management Recommendations" and

WHEREAS, grant funds would be used to implement Phase I of the Facility Development Plan which includes the following facilities: an entry gate, a 30-space parking lot, flush restrooms, children's play area, demonstration gardens, environmental education classroom shelter, maintenance building, 3-mile trail system including foot bridges and interpretive signs; and

WHEREAS, Metro Regional Parks and Greenspaces hereby certifies that matching funds up to \$1,300,000 for this application are readily available at this time; therefore

BE IT RESOLVED, that the Metro Council authorizes Metro Regional Parks and Greenspaces to apply for a local government grant from the Oregon Parks and Recreation Department for implementation of the recreation facility improvements at Cooper Mountain Nature Park and delegates authority to the department director to sign the application.

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

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3790 AUTHORIZING METRO TO APPLY FOR A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT AND DELEGATING AUTHORITY TO THE PARKS AND GREENSPACES DIRECTOR TO SIGN THE APPLICATION

Date: March 22, 2007

Prepared by: Jim Desmond
Lora Price

BACKGROUND

The Oregon Parks and Recreation budget includes a Local Government Grant Program that was approved by the 1999 legislature. The grant program was created by initiative petition filed on March 11, 1998 and approved by voters on November 3, 1998. The adopted administrative rules for the distribution of funds require approval by resolution from the elected officials of the governing bodies for all applicants. The Oregon Parks and Recreation Commission adopted administrative rules for the distribution of state lottery funds to eligible local governments, and the process for establishing the priority order in which projects are funded.

This money is to be distributed for public purposes of financing the protection, repair, operation and creation of state parks, ocean shore and public beach access areas, historic sites and recreation areas. Projects eligible for funding assistance are acquisition, development, and rehabilitation projects consistent with the outdoor recreation goals and objectives contained in the Statewide Comprehensive Outdoor Recreation Plan and/or recreation elements of local comprehensive plans and local park master plans.

The Cooper Mountain Master Plan & Management Recommendations document was approved and adopted by Metro Council on December 1, 2005 following an extensive public participation process. The goals of the master plan are to provide new facilities to support and enhance nature-based recreation and education opportunities consistent with resource protection goals of the natural area. Proposed improvements include the following facilities: an entry gate, a 30-space parking lot, flush restrooms, children's play area, demonstration gardens, environmental education classroom shelter, maintenance building and a 3-mile trail system including foot bridges and interpretive signs.

In November 2006, the Metro Area voters approved the Natural Areas, Parks and Streams Bond Measure that authorized Metro to issue \$227.4 million in general obligation bonds to finance land acquisitions and specific park-related capital improvements, including the development of the Cooper Mountain Nature Park, located in Washington County southwest of the city of Beaverton.

Upon adoption of this Resolution, Metro Parks and Greenspaces would apply for funds to assist with implementation of Phase I of Facility Improvements for Cooper Mountain Nature Park.

ANALYSIS/INFORMATION

1. Known Opposition: None.

2. Legal Antecedents:

OAR 736-006-0125(5) and (5)(k) require that applications “be consistent with the Local Government Grant Policies and Procedures Manual,” which manual requires in section 2.2(I) that the Metro Council approve, by resolution, Metro’s submission of an application for grant funding.

Resolution No. 05-3643 “For the Purpose of Approving the Cooper Mountain Master Plan and Management Recommendations” adopted December 1, 2005.

Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection,” adopted March 9, 2006.

- 3. Anticipated Effects:** If Metro is awarded this grant, the funds will be used toward implementation of Phase I of the Master Plan.
- 4. Budget Impacts:** The FY 2007-2011 Capital Improvement Plan includes development of the Cooper Mountain Nature Park. The Council President Proposed FY 2008-2012 Capital Improvement Plan and Proposed FY 2007-08 Budget includes expenditure appropriation in FY 2007-08 for this capital development. The source of funds for this development are anticipated to be General Obligation Bond proceeds. These bond funds will be used to meet the matching requirements of this grant proposal of up to \$500,000.
- 5. Outstanding Questions:** None.

RECOMMENDED ACTION

Staff recommends adoption of Resolution 07-3790.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN) Resolution No. 07-3791
ORDER RELATING TO ROBERT JAMES)
AND SUSAN CLAUS CLAIM FOR) Introduced by Chief Operating Officer Michael
COMPENSATION UNDER ORS 197.352) Jordan with the concurrence of Council President
(MEASURE 37)) David Bragdon

WHEREAS, Robert James and Susan Claus 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 Sherwood; 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 regulations that are the basis for the claim either do not restrict the use of the claimants' property or did not reduce the fair market value of the claimants' property; and

WHEREAS, the Metro Council held a public hearing on the claim on April 5, 2007, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

1. Enters Order 07-025, 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. 07-025, 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 _____ day of April, 2007

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 07-3791

Order No. 07-025

RELATING TO THE ROBERT JAMES AND SUSAN CLAUS CLAIM
FOR COMPENSATION UNDER ORS 197.352 (MEASURE 37)

Claimants: Robert James and Susan Claus

Property: 22211 SW Pacific Highway, Sherwood, Oregon (map attached)

Claim: Regulations in Titles 1, 2, 3 and 4 reduce the fair market value of claimants' property

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 report prepared by the Chief Operating Officer ("COO") prepared pursuant to section 2.21.040.

The Metro Council considered the claim at a public hearing on April 5, 2007.

IT IS ORDERED THAT:

The claim of Robert James and Susan Claus for compensation be denied because it does not qualify for compensation for reasons set forth in the reports of the COO.

ENTERED this _____ day of April, 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. 07-025
For the Purpose of Entering an Order
Relating to the Measure 37 Claim of Robert and Susan Claus**

March 16, 2007

METRO CLAIM NUMBER: Claim No. 07-025

NAME OF CLAIMANT: Robert James Claus and Susan L. Claus

MAILING ADDRESS: C/O Charles E. Harrell, attorney at law
P.O. Box 1046
Newberg, OR 97132

PROPERTY LOCATION: 22211 S.W. Pacific Highway
Sherwood, OR 97140

LEGAL DESCRIPTION: Township 2 South, Range 1 West, Section 31BA
Tax Lot 02000

ACREAGE: 5.86 acres

DATE OF CLAIM: December 1, 2006

I. CLAIM

Claimants Robert James and Susan L. Claus seek compensation in the amount of \$5,250,800 for a claimed reduction in fair market value (FMV) of property owned by the claimants as a result of the following Metro regulations:

Metro Code, Section 3.07.440 – “Protection of Employment Areas”

Metro Code, Section 3.07.310 through 3.07.340 – “Water Quality, Flood Management and Fish and Wildlife Conservation”

Metro Code, Section 3.07.140 – “Measures to Increase Development Capacity”

Metro Code, Section 3.07.170 – “Design Type Density Recommendations”

Metro Code, Section 3.07.220 – “Regional Parking Policy Performance Standard”

Metro Code, Section 3.07.420 – “Protection of Regionally Significant Industrial Areas”

Metro Code, Section 3.07.430 – “Protection of Industrial Areas”

In lieu of compensation, claimants seek a waiver of those regulations so claimants can apply to the City of Sherwood to develop and construct four mixed commercial/residential use buildings containing a combination of a parking garage, commercial retail space, commercial and professional offices, retail sales, condominium units, a hotel, and restaurant and lounge.

Claimants have also filed Measure 37 claims with the Oregon Department of Transportation, Washington County Clean Water Services, the City of Sherwood and Washington County.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on March 16, 2003. The notice indicated that a copy of this report is available upon request and that the report is posted on Metro's website at www.metro-region.org/measure37.

II. SUMMARY OF COO RECOMMENDATION

The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report. The facts and analysis indicate that the Metro regulations cited by claimants either do not apply to the property, or did not reduce the fair market value of the 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 claimants submitted this claim on December 1, 2006.

Metro Council applied the above-cited regulations to claimants' property on February 19, 1997, the effective date of the Urban Growth Management Functional Plan, adopted by Ordinance No. 96-647C on November 21, 1996. These regulations were adopted prior to the effective date of Measure 37 (December 2, 2004).

Conclusions of Law

Metro adopted the regulation that gives rise to this claim prior to the effective date of Measure 37, 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

Claimants acquired the subject property on June 28, 1988 and have had continuous ownership since that date. Attachment 1 is a site map of the subject property (ATTACHMENT 1).

Conclusions of Law

The claimants, Robert and Susan Claus, are owners of the subject property as defined in the Metro Code.

2. Zoning History

Findings of Fact

At the time that Metro's Urban Growth Management Functional Plan became effective (February 19, 1997), the subject property was zoned General Commercial. The property is currently zoned General Commercial.

3. Applicability of Metro Code Section 3.07.440 – "Protection of Employment Areas"

Findings of Fact

Claimants assert that Metro Code section 3.07.440 diminishes the value of the subject property by \$1,500,800 because of limitations on building square footage.

Subsection 3.07.440 C of the Metro Code allows the city of Sherwood to authorize commercial retail uses with more than 60,000 square feet of gross leasable area if the Sherwood Community Development and Zoning Code authorized those uses on January 1, 2003.

On January 1, 2003, Sherwood's Community Development and Zoning Code allowed retail uses over 60,000 square feet in size in Employment Areas.

Conclusions of Law

The City of Sherwood may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area on the subject property. Thus, there is no diminution of value attributable to this regulation. Moreover, the claimants have not submitted evidence that the regulation has reduced the fair market value of their property.

4. Applicability of Metro Code Sections 3.07.310 thru 3.07.340 – "Water Quality and Flood Management"

Findings of Fact

Claimants assert that Metro Code sections 3.07.310 thru 3.07.340 diminish the value of the subject property by \$250,000.

Metro Code Sections 3.07.310 thru 3.07.340 apply to a portion of the property.

ORS 197.352(3)(B) exempts land use regulations "Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste reduction, and pollution control regulations...."

Metro Code Sections 3.07.310 through 3.07.340 are intended to protect public health and safety, including water quality from pollution.

ORS 197.352 (3)C states that the statute does not apply to land use regulations that are required to comply with federal law.

Metro Code Sections 3.07.310 through 3.07.340 are intended to comply with the federal Clean Water Act.

Conclusions of Law

ORS 197.352 (Measure 37) does not apply to Metro Code Sections 3.07.340 thru 3.07.340.

5. Applicability of Metro Code Section 3.07.140 – “Measures to Increase Development Capacity”

Claimants assert that Metro Code section 3.07.140 diminishes the value of the subject property by \$1,250,000.

Section 3.07.140 A of the Metro Code states that “each city and county shall adopt a minimum dwelling unit density, as prescribed in this subsection, for each zoning district in which dwelling units are authorized inside the UGB...”

Claimants state that this regulation requires that counties and cities not allow or approve development applications that will result in area densities that are less than the minimum density required by the current zoning.

Claimants’ interpretation of this regulation is erroneous. Section 3.07.140A(3) of the Metro Code states that “... a city or county may change the dwelling unit density of any zoning district so long as the zoning district continues to comply with this subsection and so long as the city or county continues to provide at least the overall capacity for housing for the city or county specified in Table 3.07-1.”

Conclusions of Law

Metro Code section 3.07.140A does not prevent the City of Sherwood from changing the dwelling unit density of the subject property’s zoning district. Therefore, there is no diminution of value attributable to this regulation. Moreover, the claimants have not submitted evidence that the regulation has reduced the fair market value of their property.

6. Applicability of Metro Code Section 3.07.170 – “Design Type Density Recommendations”

Findings of Fact

Claimants assert that Metro Code Section 3.07.170 diminishes the value of the subject property by \$2,000,000.

The recommended population density for Employment Areas is 20 persons per acre.

As the title and text of this section indicate, this population density is a recommendation and does not constitute a land use regulation.

ORS 197.352 only applies to land use regulations, not recommendations.

Conclusions of Law

Metro Code Section 3.07.170 does not regulate claimants’ use of the subject property. Therefore, the claim against 3.07.170 is invalid.

7. Applicability of Metro Code Section 3.07.220 – “Performance Standard (Regional Parking Policy)”

Findings of Fact

Claimants assert that Metro Code section 3.07.220 diminishes the value of the subject property by \$250,000 by setting minimum and maximum parking space requirements. Claimant does not specify whether it is the minimum or maximum parking space requirement that has the effect of reducing the value of the subject property, nor does claimant describe how the regulation has the effect of reducing the property's value.

Table 3.07-2 (Regional Parking Ratios) establishes maximum permitted parking ratios for a variety of land uses. Metro's Parking Maximum Map designates lands as Zone A or Zone B for the purpose of establishing maximum permitted parking ratios. The subject property is in Zone B on Metro's Parking Maximum Map.

Metro Code section 3.07.220A states that cities and counties may grant a variance from any maximum parking ratios.

Claimants' proposal includes the construction of a parking garage.

Metro Code section 3.07.220B states that parking spaces in parking structures or other high-efficiency parking management alternatives may be exempted from maximum parking standards by cities and counties.

Conclusions of Law

Metro Code section 3.07.220 does not have the effect of limiting the number of parking spaces allowable on the subject property. Therefore, there is no diminution of value attributable to this regulation. Moreover, the claimants have not submitted evidence that the regulation has reduced the fair market value of their property.

8. Applicability of Metro Code Section 3.07.420 – “Protection of Regionally Significant Industrial Areas”

Findings of Fact

Claimants assert that Metro Code section 3.07.420 restricts use of the subject property. Claimants do not ascribe a monetary value to this restriction.

Metro Code section 3.07.420 only applies to lands designated as Regionally Significant Industrial Areas.

The subject property does not carry the Regionally Significant Industrial Area designation.

Conclusions of Law

Metro Code section 3.07.420 does not apply to the subject property. Therefore, there is no diminution of value attributable to this regulation.

9. Applicability of Metro Code Section 3.07.430 – “Protection of Industrial Areas”

Findings of Fact

Claimants assert that Metro Code Section 3.07.430 restricts the use of the subject property. Claimants do not ascribe a monetary value to this restriction.

Metro Code section 3.07.430 only applies to lands designated as Industrial areas.

The subject property is designated as an Employment area.

Conclusions of Law

Metro Code section 3.07.430 does not apply to the subject property. Therefore, there is no diminution of value attributable to this regulation.

10. 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 above-cited regulations restrict the proposed use of the property and, if so, have reduced the value of claimants' land. The following Metro Code sections are applicable to the property and are not exempt under Measure 37:

3.07.440 – “Protection of Employment Areas”

3.07.140 – “Measures to Increase Development Capacity”

3.07.220 – “Regional Parking Policy Performance Standard”

The above-cited Metro Code sections allow for city and county procedures to waive, grant variances to, or amend the applicable city or county zoning code sections.

Conclusions of Law

Metro's regulations do not necessarily restrict claimants' proposed use of the property and, therefore, have not diminished the value of the property. Moreover, the claimants have not submitted evidence that these regulations have reduced the fair market value of their property. Attached hereto as Attachment 2 is “Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel, ‘Valuation Report on the Claus Measure 37 Claim,’ dated March 19, 2007.” This memo finds that the above-cited regulations have not had the effect of reducing the value of the subject property. The memo describes the use of two different valuation methodologies, the comparable sales approach and the time-series approach. Both of these methodologies show that there is no loss of value attributable to the regulations contested by the claimants. In fact, there has been a considerable increase in the value of the subject property since the effective date of Metro's regulations.

11. Exemptions under ORS 197.352(3)

Findings of Fact

Section 3.07.310 thru 3.07.340 (“Water Quality and Flood Management”) of the Metro Code are intended to protect public health or safety and are required to comply with federal law.

Section 3.07.170 (“Design Type Density Recommendations”) of the Metro Code is not a land use regulation.

Conclusions of Law

Sections 3.07.310 through 3.07.340 of the Metro Code are exempt from Measure 37 under ORS 197.352(3).

Section 3.07.170 of the Metro Code is exempt from Measure 37 claims because it is not a land use regulation.

12. Relief for Claimant

Findings of Fact

The Metro Council has appropriated no funds for compensation of claims under Measure 37.

Claimants have not demonstrated that the cited Metro regulations have diminished the value of the subject property.

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 any of the cited Metro regulations.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Robert and Susan Claus claim for the reason that the cited Metro Code sections are exempted from ORS197.352, do not apply to the subject property, or do not reduce the value of the subject property.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of Robert and Susan Claus Property


Attachment 2: Metro Memorandum to Ray Valone and Richard Benner from Sonny Conder and Karen Hohndel, "Valuation Report on the Claus Measure 37 Claim," dated March 19, 2007

Attachment 3: Sample Area of General Commercial Data for Claus Measure 37 Claim

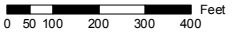
Attachment 4: Robert and Susan Claus Measure 37 Claim Submittal to Metro

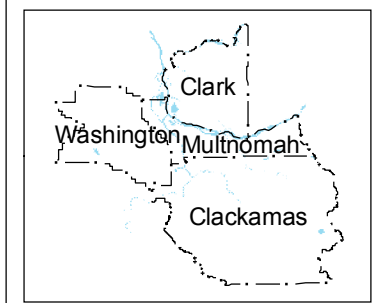
Resolution No. 07-3791
Attachment 1 COO Report

Site Map Claus 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




Location Map



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



Attachment 2 to COO Report

March 19, 2007

To: Ray Valone
Richard Benner

From: Sonny Conder
Karen Hohndel

Subject: Valuation Report on the Claus Measure 37 Claim

Conclusion:

Per your request we have conducted a valuation analysis of the Claus Measure 37 Claim. The Metro designation of 'Employment' applies to the 5.86-acre Claus property. We conclude, using the comparable sales method of determining possible reduction in value that the Metro action of imposing Metro functional plan requirements in the period 1996 through the present did not produce a material loss of value for the subject property 1. 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 Claus property. This conclusion rests on the observation that the assessor's market value for the property has continued to increase over the 1996 – 2006 period. Moreover, all comparably sized and situated properties within Sherwood in the immediate vicinity of 99W have seen substantial investment both public and private during the 10 year period and have experienced increases in value.

The Plantinga-Jaeger method as applied in this case measures the value of the property before and after Metro's actions beginning in February of 1997. 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 Claus property? Application of the method shows that the FMV of the Claus property continued to rise after Metro's actions. Thus, the Metro Council should deny the Claus 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 Claus Property Value Analysis:

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.

Attachment 2 to COO Report

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.

The Claus Claim cites 7 Metro regulations that cause property losses totaling \$5,250,800 incurred on the 5.86 acre property. All of these regulations apply equally throughout the region and throughout the particular market area along 99W in the City of Sherwood. Establishing market value with the regulation is straightforward in that we use similar properties along the 99W corridor in Sherwood.

When applied to the Claus claim, the above task number 2 requires considerable interpretation. Establishing the default use at the time of Metro's regulation is conjectural. In this instance, we presume highway oriented low density commercial uses typical of unregulated development along travel corridors with no coordinated planning regulation. Here we elect to include all relevant regulation – State, City and Metro as the claim appears to object to all collective covenants that govern land use.

The Claus property was in the UGB prior to Metro's regulatory actions and the zoning thereon was "General Commercial". Unlike previous Measure 37 claims that involved UGB expansions, establishing unequivocally the default use of the Claus property must remain in the domain of expert judgment; not legal, regulatory fact. What changed with Metro's regulation was the nature of the planning and design that is present in the Sherwood 99W Corridor. Prior design and development was dominated by single lot, direct access to 99W and free standing, highway oriented commercial development. This development we choose to characterize as "highway commercial". Design and planning standards to which the Claus claim objects focus on integrated commercial and residential development with multiple establishments, no direct 99W access, and serving a number of markets far more extensive than highway through traffic.

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 Jaeger 2, 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). 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*

Attachment 2 to COO Report

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 first regulatory action was taken in February 1997, we have actual before (1996 values) and after (2006 values) 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 Sherwood 99W Corridor for the class of properties designated GC (General Commercial) in 1996. 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. Measure 37 provides for compensation for loss or property value attributable to a regulation. It does not provide for a gain in value that may be attributed to public infrastructure investment in the area.

Property Valuation Analysis Procedure

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.

Attachment 2 to COO Report

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 General Commercial and the default of highway oriented commercial, assuming health and safety regulations are enforced.

Estimate value of property based on recent sales and assessor values of lots and existing properties inside the Sherwood 99W Commercial Corridor.

Based on allowable use of the property with the default development of highway commercial determine the alternative value of the property.

Provide an alternative determination of loss of value of the Claus property based property value data before and after Metro's regulatory action.

Provide and compare estimates of the value of the subject property as of 2006 with Metro's General Commercial designation versus our "no service" default assumption of highway commercial.

Claus Property Description

The subject property consists of a tax lot totaling 5.86 acres along the north side of Highway 99W in the City of Sherwood. Washington County Assessor data show the 5.86-acre tax lot as containing a single family home and associated improvements. Assessor's market value for the 5.86-acre tax lot is \$2,105,900 for the land and \$106,030 for the improvements giving a total assessor's fair market value of \$2,211,930 for the property. The property is designated as General Commercial and the Claus claim states an intent to develop as a mixed use commercial – residential development with structured parking.

The terrain of the property poses no substantive challenges to development. There is a Title 3 waterway running through the eastern edge of the property along the property line with an adjacent tax lot. Presently, there is a gravel driveway exiting directly on to Highway 99W. Though not confirmed with ODOT or the City of Sherwood, there is immediately to the east of the property a new entrance on to 99W with the beginning of an internal circulation arterial designed to serve the commercial and residential area north of 99W. Presently, this route dead ends on the tax lot to the east of the Claus property. Residential development is occurring north and west of the property.

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.

Land Value Estimates – 5.86 Property as 'General Commercial' and as 'Highway Commercial'

Attachment 2 to COO Report

As noted above the Claus property has a “General Commercial” designation under city zoning ordinances and the claimant’s intend a mixed-use development. Since most of the 99W Corridor in Sherwood has been or is in the process of being developed, development uses and land values for fully serviced and un-serviced land are well established. For this reason we have selected all of the General Commercial designated parcels for both 1996 prior to any Metro action and for 2006 after all relevant Metro actions have occurred.

Highway commercial uses that we take to represent the default absent the regulations being contested are more problematic within the existing UGB. The properties most comparable to “Highway Commercial” are located in the east end of the Sherwood 99W Corridor and comprise the Home Depot site to the east of 99W and the 3 properties across 99W from Home Depot. All are on fully developed land with access, parking and full services to the site. In all they comprise 5 tax lots totaling 34.2 acres.

Current Value Estimate of Sherwood General Commercial Land in the 99W Corridor Area

Table 1: Summary Property Value Data – Sherwood 99W General Commercial – Assessor’s FMV.

Number of properties:	15
Average land value per acre:	\$468,700
Low land value:	\$ 89,100
High land value:	\$903,200

We note that the properties with higher values are developed with complete site services and access. Lower valued properties are vacant without site services and sometimes occupied by transient, nonconforming uses. The average of \$468,700 per acre represents a mix of undeveloped and developed General Commercial sites along the Sherwood 99W corridor as of 2006.

Current Value Estimate of “Highway Commercial” in Sherwood 99W Corridor”

The north end of the Sherwood 99W Corridor contains several commercial parcels that have direct access to 99W and represent stand-alone sites typical of highway commercial. 3 Table 2 summarizes the data for the 5 tax lots in our sample.

Table 2: Summary Property Value Data – Sherwood 99W “Highway Commercial “– Assessor’s FMV.

Number of properties:	5
Average land value per acre:	\$116,100

³ In this instance, the uses are much more intensive than is typical of highway commercial so these land values represent the high end of highway commercial land uses.

Attachment 2 to COO Report

Low land value:	\$ 75,600
High land value:	\$271,700

4 of the 5 tax lots are on developed sites with full services.

Alternative Valuation of Claus 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 changes began in 1997, we have tabulated land values in 1996 for all GC zones properties in the Sherwood 99W corridor and again in 2006 to determine whether the Claus property actually experienced a loss of value during the 9 years subject to various Metro regulations.

Table 3 below depicts the results for the year 1996 and for the year 2006 for 15 properties zoned GC in both 1996 and 2006 within the Sherwood 99W corridor.

Table 3: Claus Land Value and All GC Land Values 1996 and 2006

Year	Claus Value per Acre	Average All GC per Acre
1996	28,300	46,200
2006	315,800	468,700
Ave Ann. Growth %	27.3%	26.1%

Both the Claus property assessor’s market land value and the average value of GC tax lots within the study area increase over 10 fold between 1996 and 2006. During the period these properties have been subjected to Metro’s and other contested regulations they have experienced value increases in excess of 25% per year. There is no evidence that Metro’s regulations have resulted in any loss of property value. The data support exactly the opposite effect.

Table 4: Comparison of Estimated Market Value of Land for Sherwood 99W Corridor General Commercial and Highway Commercial Land Uses

General Commercial

Value per Acre:	\$469,000
Current Market Value for 5.86 acres:	\$2,748,000

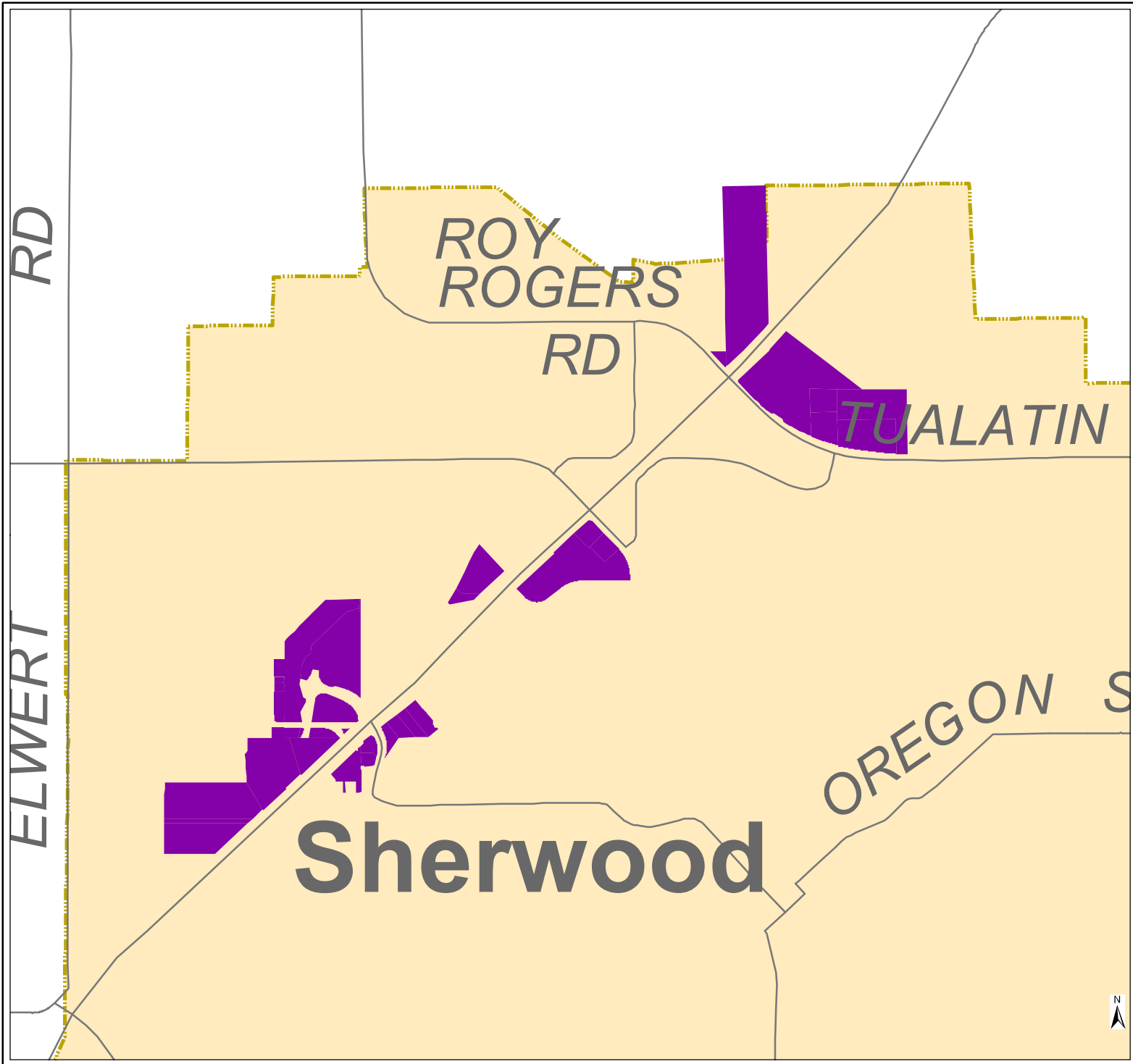
Highway Commercial

Value per Acre:	\$116,000
Current Market Value for 5.86 acres:	\$679,800

Attachment 2 to COO Report

We estimate the current land value of the Claus property with average site improvements and 'General Commercial' designation to be \$2.7 million . The same property used "Highway Commercial" would yield \$680,000. In other words, the most default valuation without the contested regulations falls well below the average valuation with the regulations in place. Given these results, we would conclude that the contested Metro regulations 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 10 fold since 1996. Clearly, under no circumstances has any regulatory change to the Claus 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 Claus property.



R L I S

REGIONAL LAND INFORMATION SYSTEM

Resolution No. 07-3791
Attachment 3 COO Report

Sample Area of
 General Commercial
 Data for Claus
 Measure 37 Claim

--- County Line
 Inside Metro UGB
 Sample Area

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 0.25 miles

Miles
 0 0.125 0.25

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

GUNN & CAIN LLP
Attorneys at Law

DEC 1 '06 PM 1:55

♦ 201-B North Meridian ♦ P.O. Box 1046 ♦ Newberg, Oregon 97132 ♦
Telephone (503) 538-8318 ♦ Facsimile (503) 537-0591

Michael G. Gunn P.C.
Jessica S. Cain P.C.

Sally D. Robinson
Charles E. Harrell

December 1, 2006

Via Hand Delivery

Office of the Chief Operating Officer
Metro
600 N.E. Grand Avenue
Portland, Oregon 97232-2736

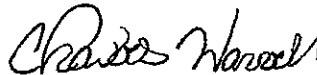
Re: James R. and Susan Claus, Measure 37 Applicants
22211 S.W. Pacific Highway, Sherwood Oregon

Dear Sir or Madam:

Enclosed herewith please find the Measure 37 claim application being filed in connection with the above-referenced property.

Applicants reserve the right, and specifically intend, to amend the claim after the claim has been filed, particularly with regard to the diminution in value of the real property pursuant to the restrictive land use regulations and ordinances. Applicants have requested and ordered a comprehensive appraisal that will detail in greater specificity the reduction in value. This appraisal may change the amount in reduction in value that applicants assert.

Very truly yours,



Charles E. Harrell
Harrell@gunn-cain.com

CEH:hsc
Enclosures
cc: Robert J. Claus and Susan Lynn Claus (w/encls.)

***Robert James Claus and
Susan L. Claus***

***22211 S.W. Pacific Highway
Sherwood, Oregon 97140***

***Metro
Measure 37 Claim Application***

**CLAIMANT NAME, ADDRESS AND TELEPHONE
NUMBER:**

Claimant Name: Robert James Claus and Susan L.
Claus

Claimant Address: 22211 S.W. Pacific Highway
Sherwood, Oregon 97140

Tax Lot: 2S131BA - 02000

Phone number: (503) 625-5265

CLAIMANT'S AUTHORIZED CONTACT/AGENT:

Michael G. Gunn, attorney at law. Bar No.: 82154

Gunn@gunn-cain.com

Charles E. Harrell, attorney at law. Bar No.: 01276

Harrell@gunn-cain.com

Gunn & Cain LLP

201-B. N. Meridian Street

P.O. Box 1046

Newberg, Oregon 97132

(503) 538-8318 – phone

(503) 537-0591 - facsimile

REAL PROPERTY TITLE REPORT:

See Supplemental Measure 37 Lot Book Service dated November 30, 2006 attached hereto as Exhibit A.

PROPERTY OWNER(S)' CONSENT TO FILING CLAIM:

See Affidavit of Robert James Claus and Susan L. Claus attached hereto as Exhibit B.

**LAND USE REGULATIONS ENFORCED BY METRO
THAT REDUCE THE VALUE OF THE REAL
PROPERTY:**

See list of restrictive Metro regulations and ordinances, along with a description of how the regulation reduces the property value, attached hereto as Exhibit C.

**COPIES OF THE RESTRICTIVE LAND USE
REGULATION(S):**

See copies of the restrictive land use regulations attached hereto as Exhibit D.

REAL PROPERTY APPRAISAL:

See Real Property Appraisal attached hereto as Exhibit E.

**DESCRIPTION OF PROPOSED USE FOR THE REAL
PROPERTY:**

The Subject Property is 5.86 acres in size. Applicants intend and desire to develop and construct four mixed commercial/residential use buildings containing a combination of a parking garage, commercial retail space, commercial and professional offices, retail sales, condominium units, a hotel, and restaurant and lounge.

**LIST OF OTHER JURISDICTIONS THAT CLAIMANTS
ARE FILING MEASURE 37 CLAIMS WITH:**


The State of Oregon – Oregon Department of
Transportation.

Washington County / Clean Water Services

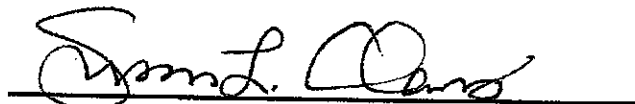
The City of Sherwood, Oregon

Washington County, Oregon

Dated this 30th day of November, 2006.



Robert James Claus



Susan L. Claus

*(Notarial acknowledgement continued on
following page.)*

***Robert James Claus and
Susan L. Claus***

***22211 S.W. Pacific Highway
Measure 37 Claim.***

***Metro Measure 37 Claim
Form.***

Exhibit A:

***Supplemental Measure 37
Lot Book Service dated
November 30, 2006.***



First American

First American Title Insurance Company of Oregon
222 SW Columbia Street, Suite 400
Portland, OR 97201
Phn - (503)222-3651 (800)929-3651
Fax - (503)790-7858

WASHINGTON COUNTY TITLE UNIT
FAX (503)790-7858

Title Officer: **Edmund Salvati**
(503)222-3651

SUPPLEMENTAL MEASURE 37 LOT BOOK SERVICE

Gunn & Cain, LLP
201 N Meridian St Ste B
Newberg, OR 97132-2752

Order No.: 7019-907524
November 30, 2006

Attn: Charles Harrell
Phone No.: (503)538-8318 - Fax No.: (503)537-0591
Email: harrell@gunn-cain.com

Re:

Fee: \$500.00

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

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

and as of November 23, 2006 at 8:00 a.m.

We find that the last deed of record runs to

Robert James Claus aka Robert J. Claus, as to an undivided 67% interest and Susan L. Claus, as to an undivided 33% interest, as tenants in common

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

1. The county tax roll discloses a mobile home on the herein described premises which is not included in title insurance coverage. Subject to requirements and provisions of O.R.S. 311.280 pertaining to mobile home taxes becoming liens on real property.

2. City liens, if any, of the City of Sherwood.

Note: There are no liens as of September 14, 2006. All outstanding utility and user fees are not liens and therefore are excluded from coverage.

3. Statutory powers and assessments of Clean Water Services.

Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-907524

Page 2 of 5

4. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
5. Limited access as set forth in deed from Frank I. Zell and Mary J. Zell, husband and wife to the State of Oregon, by and through State Highway Commission, recorded November 13, 1954 in Book 362, Page 685, which provides that no right of easement or right of access to, from or across the State Highway other than expressly therein provided for, shall attach to the abutting property.

Modification and/or amendment by instrument:
Recording Information: February 17, 1955 in Book 366, Page 567
6. Restrictive Covenant to Waive Remonstrance, pertaining to Local Public Improvements including the terms and provisions thereof
Recorded: November 22, 1991 as Fee No. 91-065128
7. Line of Credit Trust Deed, including the terms and provisions thereof, given to secure an indebtedness of up to \$49,900.00
Grantor: Robert J. Claus and Susan L. Claus
Beneficiary: Key Bank of Oregon
Trustee: Oregon Title Insurance Company
Dated: December 22, 1995
Recorded: December 27, 1995
Recording Information: 95-094815
8. Deed of Trust and the terms and conditions thereof.
Grantor/Trustor: Robert James Claus and Susan Lynne Claus, tenants by the entirety
Grantee/Beneficiary: The Commercial Bank
Trustee: Northwest Title Insurance Company
Amount: \$180,000.00
Recorded: March 15, 1996
Recording Information: 96-022832
9. Deed of Trust and the terms and conditions thereof.
Grantor/Trustor: Robert James Claus and Susan Lynne Claus
Grantee/Beneficiary: West Coast Bank
Trustee: West Coast Trust
Amount: \$350,000.00
Recorded: December 18, 2001
Recording No.: 2001-132133
10. Assignment of leases and/or rents and the terms and conditions thereof:
Assignor: Robert James Claus and Susan Lynne Claus
Assignee: West Coast Bank
Recorded: December 18, 2001
Recording Information: 2001-132134

Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-907524
Page 3 of 5

11. Line of Credit Trust Deed, including the terms and provisions thereof, given to secure an indebtedness of up to \$49,900.00
- Grantor: Robert James Claus aka Robert J. Claus, as to an undivided 67% interest and Susan L. Claus as to an undivided 33% interest, as tenants in common
- Beneficiary: West Coast Bank
- Trustee: West Coast Trust
- Dated: December 03, 2002
- Recorded: December 10, 2002
- Recording Information: 20002-149591
12. Unrecorded leases or periodic tenancies, if any.

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

NONE

We also find the following paid taxes and city liens:

NOTE: Taxes for the year 2006-2007 PAID IN FULL

Tax Amount: \$4,771.08
Map No.: 2S131BA-02000
Property ID: R551192
Tax Code No.: 088.10

NOTE: Taxes for the year 2006-2007 PAID IN FULL

Tax Amount: \$20.77
Map No.: M00076088
Property ID: M2006613
Tax Code No.: 088.10
(Affects Manufactured Home)

NOTE: Taxes for the year 2006-2007 PAID IN FULL

Tax Amount: \$17.29
Map No.: M00029290-000
Property ID: M925681
Tax Code No.: 088.10
(Affects Manufactured Home)

Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-907524
Page 4 of 5

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

Title of Conveyance: Warranty Deed
Recorded: June 28, 1988
As: 88-27754
Grantor: George M. Stanfield and Betty L. Stanfield, tenants by the entirety
Grantee: Robert James Claus and Karen E. Claus, husband and wife, and Susan Lynne Claus, not as tenants in common but with the right of survivorship

Title of Conveyance: Warranty Deed
Recorded: August 30, 1990
As: 90-47055
Grantor: Robert James Claus, Karen E. Claus and Susan Lynne Claus
Grantee: Robert J. Claus and Karen E. Claus, husband and wife, as to an undivided 42% interest, Susan L. Claus, as to an undivided 33% interest and Loren Harrison, as to an undivided 25% interest

Title of Conveyance: Quitclaim Deed
Recorded: March 27, 1991
As: 91-14738
Grantor: Karen E. Claus
Grantee: Robert James Claus

Title of Conveyance: Quitclaim
Recorded: May 14, 1991
As: 91-24410
Grantor: Loren Harrison
Grantee: Robert James Claus

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

Attachment 4 to COO Report

Lot Book Service

Guarantee No.: 7019-907524

Page 5 of 5

Exhibit "A"

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

Beginning at the Northeast corner of that certain tract of land described in deed to Millie Gillmor, recorded in Book 149, page 237, Deed Records, Washington County, said corner being South 89°38' East 660.00 feet South 0°29' West 431.00 feet and South 89°581/2' East 1058.80 feet from the Northwest corner of Section 31, Township 2 South, Range 1 West, Willamette Meridian, in the County of Washington and State of Oregon; thence North 3°22' East 425.60 feet to a point on the North line of said Section 31, said point also being the Northeast corner of that certain tract of land described in deed to Herbert Elwert by deed recorded July 27, 1942 in Book 209, page 747, Deed Records; thence South 89°38' East along the North line of said Section 31, a distance of 433.00 feet to the Northwest corner of that certain tract of land described in deed to Oeie Davis, et ux, recorded in Book 419, page 310, Deed Records; thence South 17°48' East along the Easterly line of said Davis Tract 371.90 feet to a point on the Northerly line of the Westside Pacific (State) Highway, said point being opposite Engineer's centerline station 449+26.2 as described in deed recorded in Book 362, page 685, Washington County Deed Records; thence South 47°03'45" West along the Northerly line of said Highway 73.80 feet to a point opposite Engineer's center line station 450.00; thence North 42°03'45" West 10.0 feet; thence South 47°03'45" West along the Northerly line of said Highway 200.00 feet, thence South 42°03'45" East 10.00 feet; thence South 47°03'45" West along the Northerly line of said Highway 306.00 feet to its point of intersection with the Northeasterly line of said Gillmor tract, said point being opposite Engineer's center line station 455.06; thence North 30°29' West along the Northeasterly line of said Gillmor Tract 311.50 feet, more or less, to the Northeast corner thereof and point of beginning.

EXCEPTING THEREFROM that portion in Deed to Centex Homes, a Nevada General Partnership, recorded June 12, 1997 as Fee No. 97053926, described as follows:

A parcel of land in the Northwest one-quarter of Section 31, Township 2 South, Range 1 West, of the Willamette Meridian, in the City of Sherwood, County of Washington and State of Oregon, described as follows:

Beginning at the Southwest corner of Lot 7 of the plat of WYNDHAM RIDGE; thence along the South line of said plat North 89°53'48" West 34.95 feet to the Northwest corner of the property described in Deed document No. 91024410; thence leaving said South line along the West line of said property South 03°37'10" East 153.86 feet; thence leaving said West line on a non-tangent curve having a radius of 55.00 feet concave to the Northwest, the radius point of which bears North 29°44'19" West, through a central angle of 76°02'29", an arc length of 72.99 feet (chord bears North 22°14'27" East 67.75 feet) to a point of compound curvature; thence on a tangent curve having a radius of 15.00 feet concave to the Northeast, through a central angle of 15°52'59", an arc length of 4.16 feet (chord bears North 7°50'18" West 4.14 feet); thence North 00°06'12" East 86.67 feet to the point of beginning.

Tax Parcel Number: R551192 and M2006613 and M925681

***Robert James Claus and
Susan L. Claus***

***22211 S.W. Pacific Highway
Measure 37 Claim.***

***Metro Measure 37 Claim
Form.***

Exhibit B:

***Notarized Statements from
property owners authorizing
Gunn & Cain LLP to file
claim on their behalf.***

AUTHORIZATION TO FILE CLAIM

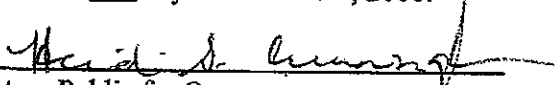
I, the undersigned, Robert James Claus hereby authorize Michael G. Gunn and Charles E. Harrell of Gunn & Cain LLP to file a Measure 37 Claim on my behalf associated with the real property located in Washington County and more specifically identified by Tax Lot No. 2S131BA - 02000, and to communicate with and receive communication from Metro regarding the said claim.

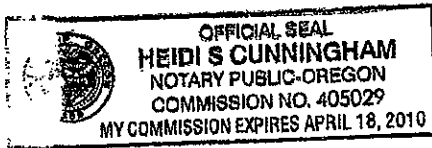

Robert James Claus

State of Oregon)
) ss.
County of Yamhill)

Personally appeared before me the above-named Robert James Claus, who acknowledged execution of the foregoing document to be his voluntary act and deed.

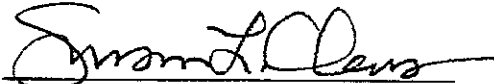
Subscribed and sworn to before me this 30 day of November, 2006.


Notary Public for Oregon
My commission expires: 4-18-10



AUTHORIZATION TO FILE CLAIM

I, the undersigned, Susan L. Claus hereby authorize Michael G. Gunn and Charles E. Harrell of Gunn & Cain LLP to file a Measure 37 Claim on my behalf associated with the real property located in Washington County and more specifically identified by Tax Lot No. 2S131BA - 02000, and to communicate with and receive communication from Metro regarding the said claim.

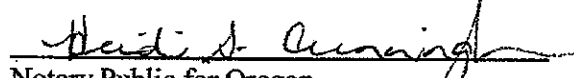


Susan L. Claus

State of Oregon)
) ss.
County of Yamhill)

Personally appeared before me the above-named Susan L. Claus, who acknowledged execution of the foregoing document to be her voluntary act and deed.

Subscribed and sworn to before me this 30 day of November, 2006.



Notary Public for Oregon

My commission expires: 4-18-10



***Robert James Claus and
Susan L. Claus***

***22211 S.W. Pacific Highway
Measure 37 Claim.***

***Metro Measure 37 Claim
Form.***

Exhibit C:

***List of restrictive Metro
ordinances and regulations
that reduce the fair market
value.***

**LIST OF ZONING ORDINANCES, REGULATIONS, ETC. ADOPTED BY METRO
WHICH RESTRICT LAND USE AND REDUCE MARKET VALUE:**

ROBERT JAMES CLAUS AND SUSAN L. CLAUS

1. Metro Code Section 3.07.440 - Protection of Employment areas.

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.440 restricts and prohibits commercial retail uses in the Employment Area in excess of 60,000 square feet.

- Estimated diminution in value is approximately \$1,500,800; **However, Applicants specifically reserve the right to amend and supplement this amount after the claim has been filed.**

2. Metro Code Section 3.07.310 thru 3.07.340 - Water Quality, Flood Management and Fish and Wildlife Conservation.

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.310 thru 3.07.340 is imposed on counties and cities by Metro and requires that local comprehensive plans must address (i.e., restrict) development, excavation and fill in Flood Management Areas.

- Estimated diminution in value is approximately \$250,000; **However, Applicants specifically reserve the right to amend and supplement this amount after the claim has been filed.**

3. Metro Code Section 3.07.140 - Measures to increase development capacity.

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.140 requires that counties and cities can not allow or approve development applications that will result in area densities that are less than the minimum density required by the current zoning.

- Estimated diminution in value is approximately \$1,250,000; **However, Applicants specifically reserve the right to amend and supplement this amount after the claim has been filed.**

4. **Metro Code Section 3.07.170 - Design type density recommendations.**

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.170 requires that the average density for housing and employment in "Employment areas" is 20 persons per acre.

- Estimated diminution in value is approximately \$2,000,000; **However, Applicants specifically reserve the right to amend and supplement this amount after the claim has been filed.**

5. **Metro Code Section 3.07.220 - Regional parking policy performance standard.**

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.220 establishes and restricts minimum and maximum parking space requirements.

- Estimated diminution in value is approximately \$250,000; **However, Applicants specifically reserve the right to amend and supplement this amount after the claim has been filed.**

6. **Metro Code Section 3.07.420 - Protection of regionally significant industrial areas.**

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.420 limits the size and location of new buildings for retail commercial uses, and provides that new buildings shall not occupy more than 3,000 square feet in single outlet or 20,000 square feet in a development project.

7. **Metro Code Section 3.07.430 - Protection of industrial areas.**

Adopted in 1997 by Ordinance 97-715B, Metro Code Section 3.07.420 limits the size and location of new buildings for retail commercial uses, and provides that new buildings shall not occupy more than 3,000 square feet in single outlet or 20,000 square feet in a development project.

***Robert James Claus and
Susan L. Claus***

***22211 S.W. Pacific Highway
Measure 37 Claim.***

***Metro Measure 37 Claim
Form.***

Exhibit D:

***Copies of restrictive Metro
ordinances and regulations
that reduce the fair market
value.***

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN) Resolution No. 07-3796
ORDER RELATING TO THE PATRICIA A.)
LAWRENCE CLAIM FOR) Introduced by Chief Operating Officer Michael
COMPENSATION UNDER ORS 197.352) Jordan with the concurrence of Council President
(MEASURE 37)) David Bragdon

WHEREAS, Patricia A. Lawrence filed a claim for compensation under ORS 197.352 (Measure 37) contending that Metro regulations had reduced the fair market value of property she owns in the city of Damascus; and

WHEREAS, the Chief Operating Officer reviewed the claim and submitted a report to the Metro Council, pursuant to section 2.21.040 of the Metro Code, recommending dismissal of the claim for the reason that the claimant has not identified a Metro regulation that restricts the use of the subject property and has submitted no evidence of reduction in fair market value; and

WHEREAS, the Metro Council held a public hearing on the claim on April 5, 2007, and considered information presented at the hearing; now, therefore

BE IT RESOLVED that the Metro Council

1. Enters Order 07-026, attached to this resolution as Exhibit A, which dismisses the claim for compensation.
2. Directs the Chief Operating Officer (“COO”) to send a copy of Order No. 07-026, 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 ___ day of _____, 2007.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 07-3796

Order No. 07-026

RELATING TO THE PATRICIA A. LAWRENCE CLAIM FOR COMPENSATION UNDER
ORS 197.352

Claimant: Patricia A. Lawrence

Property: Damascus
Township 2 South, Range 3 East, Section 9B, Tax Lots 01000 and 01200

Claim: Metro regulation has reduced claimant's fair market value

Claimant submitted the claim to Metro pursuant to ORS 197.352. This order is based upon the report prepared by the Chief Operating Officer (COO) pursuant to section 2.21.040(c) of the Metro Code.

The Metro Council has considered the report of the COO, attached to this order.

IT IS ORDERED THAT:

The claim of Patricia A. Lawrence is dismissed because claimant has not identified a Metro regulation that restricts the use of the subject property and has submitted no evidence of reduction in fair market value.

ENTERED this ____ day of _____, 2007.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

**CLAIM FOR COMPENSATION
UNDER ORS 197.352
AND METRO CODE CHAPTER 2.21**

REPORT OF THE CHIEF OPERATING OFFICER

**In Consideration of Order No. 07-026
For the Purpose of Entering an Order
Relating to the Claim of Patricia A. Lawrence**

March 8, 2007

METRO CLAIM NUMBER: Claim No. 07-026

NAME OF CLAIMANTS: Patricia A. Lawrence

MAILING ADDRESS: 14661 SE Royer Road, Damascus, OR

PROPERTY LOCATION: City of Damascus

LEGAL DESCRIPTION: T 2 South, R 3 East, Section 9B, Tax Lots 01000 and 01200

DATE OF CLAIM: December 1, 2006

I. CLAIM

Claimant Patricia A. Lawrence seeks compensation for a claimed reduction in fair market value of the subject property as a result of a Metro land use regulation. Attachment 1 is a site map of the subject property (ATTACHMENT 1).

II. SUMMARY OF COO RECOMMENDATION

The Chief Operating Officer (COO) recommends that the Metro Council dismiss the claim for the reason set forth in section III of the report.

III. PRELIMINARY REVIEW

1. *Timeliness of Claim*

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

- a. For claims arising from a land use regulation enacted *prior* to the effective date of Measure 37, within two years of that date or the date a public entity applies the regulation to the property as an approval criterion in response to a land use application submitted by the owner; or
- b. For claims arising from a land use regulation enacted *after* the effective date of Measure 37, 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.

The claimant bases her claim on undetermined Metro land use regulations. Claimant filed her claim on December 1, 2006. The claim is timely.

2. *Location of Property*

Claimant's property lies within the City of Damascus in territory added to the UGB on December 5, 2002. The property is subject to Metro regulations that add new territory to the UGB.

3. *Land Use Regulation*

The claim does not make reference to a specific Metro land use regulation. It is apparent from the claim, however, that claimant believes a Metro regulation prohibits her from developing the subject property in the manner she prefers. In correspondence and conversation with the claimant, claimant has made reference to regulations of the city of Damascus, but none of Metro, that she believes reduce the fair market value of the property.

4. *Interest in Land*

Metro Code section 2.21.020(c) defines "owner" to mean the owner of the property or any interest therein. To be valid, the claimant must have been the owner at the time the Metro regulation first became applicable to the subject property, and must have remained the owner. The claimant has owned the subject property since 1972.

IV. COO Recommendation

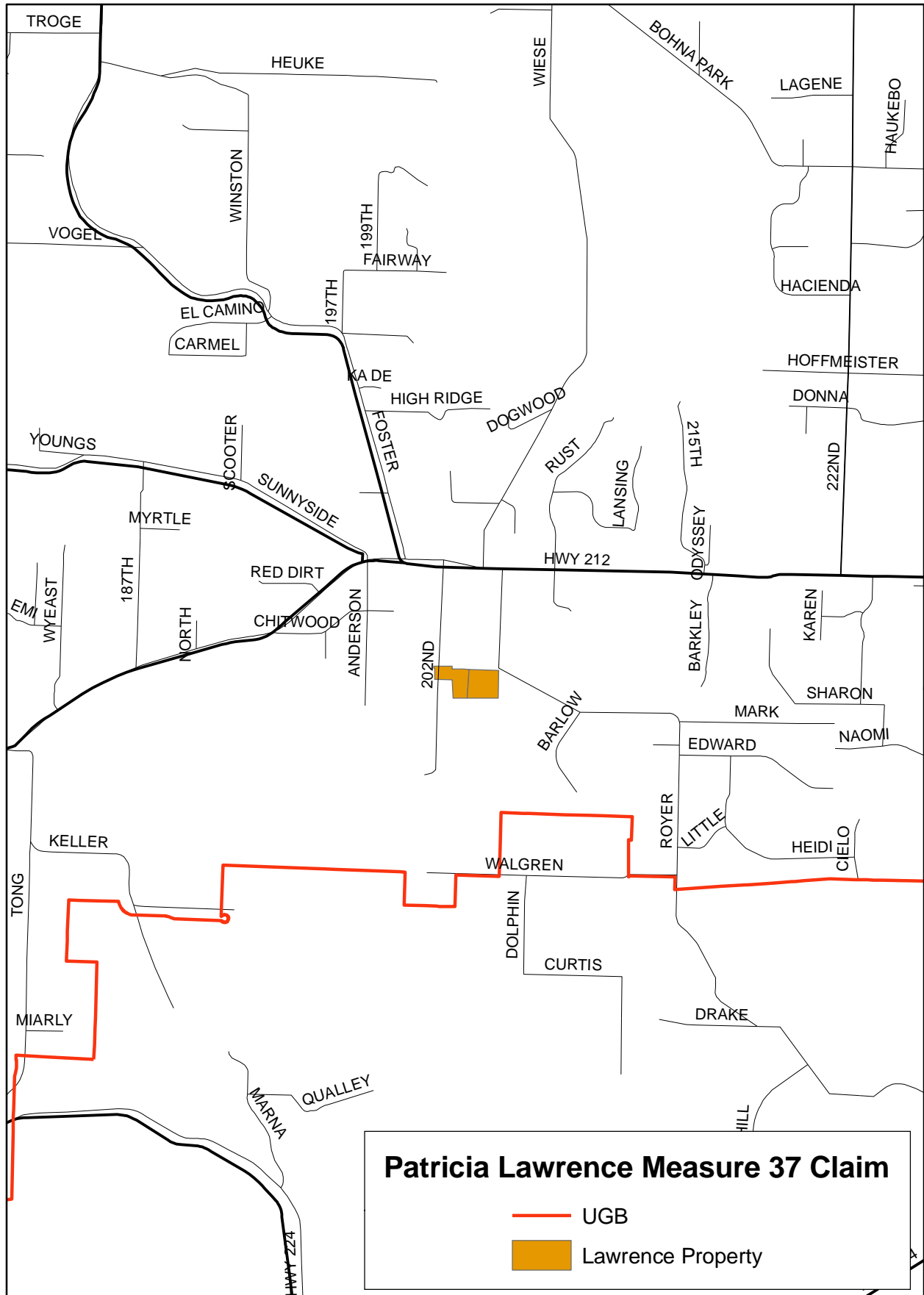
Metro Code section 2.21.040(b) requires the COO to make a preliminary analysis to determine whether a claim meets the basic requirements for full review. The claimant in this case has not identified a Metro regulation as the basis for her claim. The claimant has also not submitted information to show that a Metro regulation has reduced the fair market value of her property. Staff has, by letter and telephone conversation, asked claimant to submit this information. She has not submitted the information. It is, therefore, not possible to determine whether a Metro regulation has reduce the value of her property. The COO recommends that the Metro Council dismiss the claim pursuant to Metro Code 2.21.040(c) and 2.21.060(a)(1).

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of the Patricia Lawrence Property

Attachment 2: Patricia Lawrence Measure 37 Claim Submittal to Metro

Attachment 1 to COO Report



DEC - 4 2006

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

MV/Council 10:40 am via
mail room

FOR STAFF USE ONLY

FILE NUMBER: _____ DATE RECEIVED: 4-30-06 12-01-06

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

WHAT IS PROPOSED _____

LEGAL DESCRIPTION: T 2 R 3E SECTION 0913 TAX LOT(S) 1000, 1200

LEGAL DESCRIPTION: T _____ R _____ SECTION _____ TAX LOT(S) _____

CONTACT PATRICIA A. LAWRENCE

MAILING ADDRESS 14661 SE ROYER RD

CITY DAMASCUS STATE OR ZIP 97089

PHONE 503 658-3287 CELL PHONE 971-222-4604

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 PATRICIA A. LAWRENCE CLAIMANT

SIGNATURE Patricia A. Lawrence

MAILING ADDRESS 14661 SE ROYER RD

CITY DAMASCUS STATE OR ZIP 97089

PHONE 503 658-3287 CELL PHONE 971-222-4604

NAME _____ CLAIMANT

SIGNATURE _____

MAILING ADDRESS _____

MEASURE 37 CLAIM
SUPPLEMENTAL INFORMATION

(Attach additional sheets as needed.)

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

Name: FLAGSTAR BANK Phone: 800-945-7700

Address: 2600 TELEGRAPH RD.

Type of Interest: HOME LOAN

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.) AUG 1971

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.)? N/A

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.

N/A

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?

WAS 1 ACRE DIVIDABLE IN 1971 - WENT TO 5 ACRE LATER
MAY BE CHANGED TO GREEN SPACE

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

INCREASE IN VALUE SHOULD HAVE SALE VALUE SAME AS OTHERS IN NEW CITY LIMITS

7. How much has the fair market value of your property been reduced by enactment or enforcement of the regulation(s)? AT THIS TIME NOT SURE (GREEN SPACE)?

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.)

FAIR VALUE - ABLE TO DIVIDE

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

ALREADY IN USE - GO-CART TRACK + AUTO REPAIR SHOP

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

Attachment 2 to COO Report

OFFICIAL RECORD OF DESCRIPTIVE OF REAL PROPERTY CLACKAMAS COUNTY ASSESS											
TWP. 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.		
ACCOUNT NUMBER											
								Date of Entry on this Card	DEED RECORD VOL.	PG.	ACRE REMAIN
2	35	9	8		1000			26 9			
Jones, Perry E. & Carrie A.								1-16-67	369	430	2.2
Lawrence, David F. & Patricia A.								11-13-72	72	28285	
Annexed to Mult. Mktg. Co. 1-1-79								2-23-79			
Lawrence Patricia Ann								8-1-93	83	22215	D.C. POSTED
UNIFICATION GRESHAM-BARLOW SD 26 DOR 26-585-94 94-95 ROLL								4-8-86	86	7261	
COMBINED TL 510								4-5-95	LTR	2.83	
TO MULT ELEM ESU											
SD 26-599-95 1995-96 ROLL											
								03-12-97	97	200455	corr. dec. POSTED

Attachment 2 to COO Report

OFFICIAL RECORD OF DESCRIPTIONS
 OFFICIAL RECORD OF DESCRIPTIONS
 OF REAL PROPERTY 36369-1
 CLACKAMAS COUNTY ASSESSOR

2609
2602

TWP	RGE	SEC.	1/4	1/16	TAX LOT	TYPE	SPEC INT IN REAL PROP	CODE AREA NUMBER
2	3E	9	B		1200			
MAP NUMBER								FORMERLY PART OF T. L. NO.
ACCOUNT NUMBER								

Date of Entry or this Card	DEED RECORD		ACRES REMAINING
	VOL.	PG.	
1-16-67	476	320	3.94
2-22-78			
8-1-83	83		FC

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

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

to grantor paid by ...

Grantor hereby grants, bargains, sells and conveys unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereto belonging or appertaining, situated in the County of ... and State of Oregon, described as follows, to-wit:

See attached Exhibit "A"

Recorded By ...

(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 except 1972-73 taxes due but not yet payable.

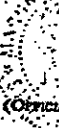
and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances. The true and actual consideration paid for this transfer, stated in terms of dollars, is \$37,500.00

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 30 day of August 19 72

Perry E. Jones
Carrie A. Jones

STATE OF OREGON, County of Multnomah) ss August 30 19 72
Personally appeared the above named Perry E. Jones and Carrie A. Jones, husband and wife
and acknowledged the foregoing instrument to be their voluntary act and deed.



Before me: Margaret J. Deibel
Notary Public for Oregon
My commission expires 10-24-75

NOTE-The spaces between the symbols @, # and #/ are not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by the 1967 Special Session.

WARRANTY DEED
Perry E. Jones
Carrie A. Jones
TO
David F. Lawrence
Patricia A. Lawrence
AFTER RECORDING RETURN TO
Mr. David F. Lawrence
701 1/2 Bow 200
Clackamas, Oregon

DON'T USE THIS SPACE RESERVED FOR RECORDING LABEL IN COUNTY WHERE USED.

STATE OF OREGON,
County of ...
I certify that the within instrument was received for record on the ... day of ... 19 ... at ... o'clock ... M., and recorded in book ... on page ... Record of Deeds of said County. Witness my hand and seal of County aforesaid.

By ... Deputy.

SUBJECT TO the rights of the public in and to that portion lying within the boundaries of public roads.

EXCEPT a tract of land conveyed by deed recorded in Book 142, page 360, Deed Records, and as corrected by deed recorded in Book 319, page 408, Deed Records, more particularly described as a part of Government Lot 2, Section 9, T. 2 S., R. 3 E., of the W. M., more particularly described as:

2 3E 9B 1000 x 1200

Beginning on the west line of said lot, due West of the most westerly northwest corner of the Chevalier Richardson D. L. C., which point is 929.1 feet, more or less, North of the one-quarter section corner on the west line of said Section; thence East 14 rods; thence North 12 rods; thence West 14 rods, to the west line of said lot; thence South 12 rods to the point of beginning.

ALSO EXCEPTING a tract of land conveyed by deed recorded in Book 142, page 361, Deed Records, more particularly described as:

The west one rod of Government Lot 2, in Section 9, T. 2 S., R. 3 E., of the W. M.

ALSO EXCEPTING a tract of land conveyed by deed recorded in Book 319, page 410, Deed Records, more particularly described as:

Part of Government Lot 2, Section 9, T. 2 S., R. 3 E., of the W. M., more particularly described as:

Beginning at the one-quarter section corner on the west line of said Section; thence East on the one-quarter section line 69.9 feet, more or less, to the west line of the Chevalier Richardson D. L. C.; thence North on the west line of said claim 929.1 feet; more or less, to the most westerly northwest corner of said claim; thence West 69.9 feet, more or less, to the west line of said Section 9; thence South on the section line 929.1 feet, more or less, to the point of beginning.

PARCEL II:

2 3E 9B 900

The north 233 feet of the west 1 rod of Government Lot 2, Section 9, T. 2 S., R. 3 E., of the W. M.

PARCEL III:

TOGETHER WITH an easement to be used in common with others over the following described property:

Beginning 40 rods South of the northeast corner of said Section 8; thence West 1 rod; thence South parallel with and 1 rod distant from the east line of said Section 8, a distance of 120 rods to the north line of the northeast one-quarter of the southeast one-quarter of said Section 8; thence East along said north line 1 rod; thence North along the east line of said Section 8, a distance of 120 rods to the point of beginning.

STATE OF OREGON
County of Clatsop

I, George D. Poppen, County Clerk, do hereby certify that the within instrument of writing is a true and correct copy of the original as recorded in the records of the County of Clatsop, Oregon, for the County Clerk of the State of Oregon, for the County of Clatsop, Oregon, on this 19th day of September, 1972.

1972 SEP 19 PM 2 35
County of Clatsop



Witness my hand and the seal of the County of Clatsop, Oregon, this 19th day of September, 1972.
George D. Poppen
County Clerk
Deputy

2

172-28285