

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING ORDERS)
RELATING TO THE VELMA PAULINE POVEY) Resolution No. 08-3957A
AND LILA AND KENNETH SAXON CLAIMS)
FOR COMPENSATION UNDER SECTION 9 OF) Introduced by Chief Operating Officer
CHAPTER 424 OREGON LAWS 2007 (MEASURE) Michael Jordan with the concurrence of
49) AND METRO CODE CHAPTER 2.21) Council President David Bragdon

WHEREAS, Velma Pauline Povey and Lila and Kenneth Saxon, filed claims for compensation under section 9 of Chapter 424, Oregon Laws, 2007 (Measure 49), and Metro Code Chapter 2.21 contending that a Metro regulation reduced the fair market value of their properties; and

WHEREAS, both claimants had previously filed claims with Metro under Measure 37; and


WHEREAS, the Chief Operating Officer reviewed the claims and sent notice of his tentative determinations of qualification for compensation or waiver to those entitled to notice under Metro Code 2.21.040(b); and

WHEREAS, the Metro Council considered the claims at a public hearing on July 24, 2008; now, therefore


BE IT RESOLVED that the Metro Council:

1. Enters Order No. 08-046, attached to this resolution as Exhibit A, which denies the claims.
2. Directs the Chief Operating Officer ("COO") to send copies of the order to the claimants, the City of Damascus and Clackamas County, the Oregon Department of Administrative Services and any person who participated in the public hearing, and to post the order at the Metro website.

ADOPTED by the Metro Council this 24th day of July, 2008.


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

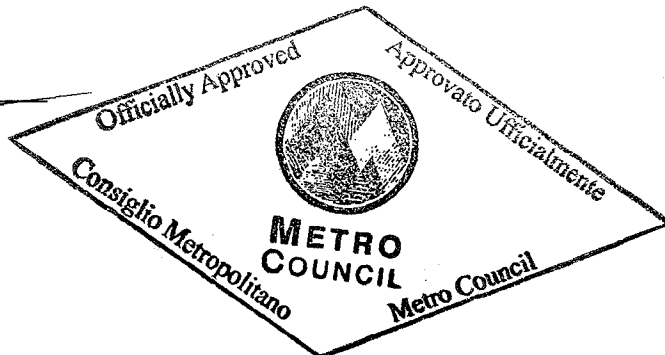


Exhibit A to Resolution No. 08-3957A
Order No. 08-046

RELATING TO THE VELMA PAULINE POVEY AND LILA AND KENNETH SAXON CLAIMS
FOR COMPENSATION UNDER SECTION 9, CHAPTER 424 OREGON LAWS 2007 (MEASURE 49)

Claimants: Velma Pauline Povey; Lila and Kenneth Saxon.

Property: City of Damascus

Claim: Interim Protection Standard in Metro Code 3.07.1120C (Title 11) reduces the fair market value of claimants' properties.

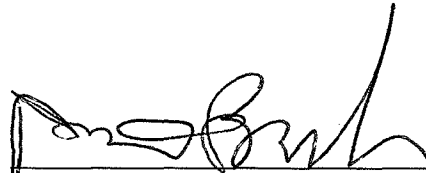
Claimants submitted their claims to Metro pursuant to section 9 of Chapter 424, Oregon Laws, 2007 (Measure 49), and Metro Code Chapter 2.21. This order is based upon materials submitted by the claimants and the reports prepared by the Chief Operating Officer ("COO") pursuant to section 2.21.060(g), and other materials presented at the public hearing.

The Metro Council considered the claims at a public hearing on July 24, 2008.

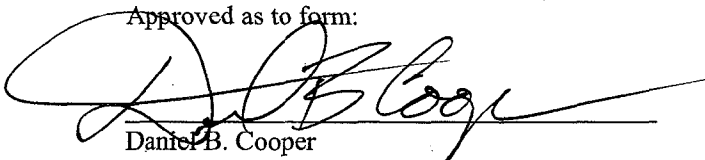
IT IS ORDERED THAT:

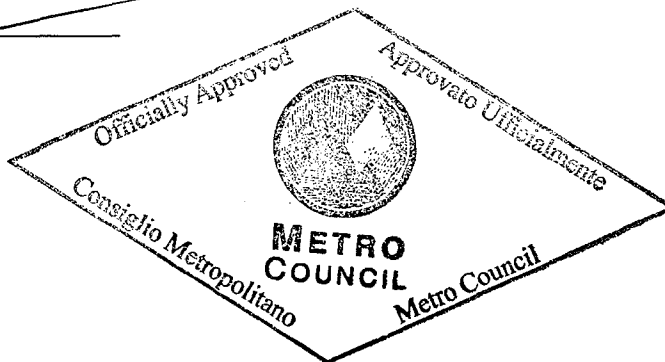
The claims of Velma Pauline Povey and Lila and Kenneth Saxon for compensation or waiver be denied because they do not qualify for the reasons set forth in the reports of the COO.

ENTERED this 24th day of July, 2008.


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper
Metro Attorney



**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 49
AND METRO CODE CHAPTER 2.21**

REPORT OF THE METRO CHIEF OPERATING OFFICER

In Consideration of Council Order No 08-046

For the purpose of entering an order relating to the Velma Pauline Povey and Lila & Kenneth Saxon claims for compensation under Section 9 of Chapter 424 Oregon laws 2007 (Measure 49) and Metro Code Chapter 2.21

July 24, 2008

METRO CLAIM NUMBER: Claim No. 08-046

NAME OF CLAIMANT: Velma Pauline Povey

MAILING ADDRESS: c/o William C. Cox, Attorney at Law
0244 SW California St.
Portland, OR 97219

PROPERTY LOCATION: Damascus, OR 97089

LEGAL DESCRIPTION: Township 2S, Range 3E, Section 2
Tax Lots 1410 and 1412

DATE OF CLAIM: May 8, 2008

I. CLAIM

Claimant Velma Pauline Povey seeks compensation in the amount of \$1,204,000 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 7.77-acre subject property into eight (one-acre) single-family residential lots.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on June 16, 2008. 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.oregonmetro.gov/measure49.

II SUMMARY OF COO RECOMMENDATION

The claim does not meet the basic requirements of Measure 49. The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report.

III TIMELINESS OF CLAIM

Findings of Fact

Measure 49, section 10(3) requires that if a claimant has made a Measure 37 claim against Metro before June 28, 2007, but Metro did not make a final decision on the Measure 37 claim before the effective date

of Measure 49, Metro shall send notice to the claimant within 90 days after the effective date of Measure 49, notifying the claimant of their right to seek relief under Measure 49.

The Claimant submitted a Measure 37 claim on November 29, 2006. The claim identified Metro Code section 3.07.1110 C as the basis of the claim. Claimant's Measure 37 claim was made before June 28, 2007.

Metro had not made a final decision on Claimant's Measure 37 claim by December 6, 2007, the effective date of Measure 49.

Metro sent notice to Claimant on February 14, 2008, notifying Claimant of her rights under Measure 49. That notice was timely as it was sent within 90 days of December 6, 2007, the effective date of Measure 49.

Notified claimants have 120 days after the date of that notice to inform Metro, in writing, of their intention to continue the claim and to file the information required under Measure 49. That required information includes, but is not limited to, an appraisal, prepared as described in Sections 9(6) and 9(7) of Measure 49.

On May 8, 2008, Claimant filed an amended claim against Metro under Measure 49. That claim was timely as it was filed within 120 days of the February 14, 2008 notice from Metro.

Metro staff conducted a preliminary completeness review of Claimant's Measure 49 claim and sent a letter of tentative determination to Claimant on May 12, 2008 (ATTACHMENT 2). In that letter, Staff determined that Claimant's claim was incomplete because it lacked an appraisal as required by Measure 49 and Metro Code 2.21.030(c)(6) and that the claimant was not entitled to relief under Section 9 of Measure 49.

Claimant sent a letter of response on May 27, 2008 (ATTACHMENT 3). Claimant did not, however, provide an appraisal as required by Measure 49. As of the date of this report, the claim is incomplete as it lacks an appraisal.

Conclusions of Law

The claim does not meet this criterion. By the established deadline for a complete claim, Claimant's claim against Metro was incomplete and, thus, not timely.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code Section 2.21.030(b)(1) states that for a claim to be valid, the claimant must be an owner of the property.

Findings of Fact

Metro Code section 2.22.020(d) defines "owner" to mean:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Claimant acquired an ownership interest in the 7.77-acre subject property through a Contract recorded on September 26, 1972 and has had a continuous ownership interest since that time. The property consists of two tax lots, one of which is 2.65 acres and the other of which is 5.12 acres. Attachment 1 is a site map of the subject property (ATTACHMENT 1). There is a house on the 2.65-acre tax lot. The 5.12-acre tax lot has no improvements.

Conclusions of Law

The claim meets this criterion. The Claimant, Velma Pauline Povey, Trustee of the Povey Trust, is the sole owner of the subject property as defined in the Metro Code.

2. Consent of All Owners

Metro Code Section 2.21.030(b)(2) states that for a claim to be valid, all owners must consent in writing to the filing of the claim.

Findings of Fact

Claimant Velma Povey is the sole owner of the property and has consented in writing to the filing of the claim.

Conclusions of Law

The claim meets this criterion. All owners of the property have consented in writing to the filing of the claim.

3. Location of property within Metro UGB

Metro Code Section 2.21.030(3) ("Filing an Amended Claim") states that in order to qualify for compensation or waiver by Metro, a property must be wholly or partially located within Metro's UGB.

Findings of Fact

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

Conclusions of Law

The claim meets this criterion. The subject property is wholly within the Metro UGB.

4. Allowed number of single-family dwellings

Metro Code Section 2.21.030(4) states that for a claim to be valid, the claimant, on the claimant's property acquisition date, lawfully must have been permitted to establish at least the number of dwellings on the property that are authorized under Ballot Measure 49. Section 9(2) of Measure 49 states that the number of single-family dwellings that may be established may not exceed the lesser of:

- (a) The number of single-family dwellings described in a waiver issued by Metro, a city or a county before the effective date of Measure 49 (December 6, 2007) or, if a waiver was not issued, the number described in the claim filed with Metro, a city or a county;
- (b) 10, except that if there are existing dwellings on the property, the number of single-family dwellings that may be established is reduced so that the maximum number of dwellings, including existing dwellings located on the property, does not exceed 10; or
- (c) The number of single-family dwellings the total value of which represents just compensation for the reduction in fair market value caused by the enactment or one or more land use regulations that were the basis for the claim

Findings of Fact

Claimant asserts that the zoning of the subject property at the time of Claimant's acquisition allowed for one-acre lots and requests the ability to divide the 7.77-acre property into 8 lots. Subsequent to the Claimant's acquisition of the property and before its inclusion in the Metro UGB, the property was rezoned by Clackamas County as RRF-5, with a 5-acre minimum lot size.

Metro has not issued a waiver to the Claimant of the 20-acre minimum lot size requirement found in Section 3.07.1110 C of the Metro Code. On April 16, 2007, the City of Damascus issued a waiver of the RRF-5 zoning.

One single-family dwelling is presently on the 2.65-acre tax lot.

Claimant has not provided an appraisal as required under Metro Code Section 2.21.030(c)(6) and Measure 49 Section 9(6) and 9(7).

Conclusions of Law

The claim does not adequately address this criterion. As described in Section 9(2) of Measure 49, the maximum number of allowable single-family dwellings is the lesser of choices a, b, and c (detailed above). In order to make that determination, there must be a quantification of diminished value (if any) that is attributable to the cited Metro regulation. Because Claimant has not provided an appraisal as required by Metro Code and Measure 49, Claimant has not provided adequate information to establish a right under Measure 49 to divide the property into 8 single-family lots. Additionally, the establishment of 8 lots on the 7.77-acre property would result in the creation of at least one lot of less than one acre, which would not have been allowed at the time of claimant's acquisition.

5. Residential use

Metro Code Section 2.21.030(5) states that a claimant must establish that the property is zoned for residential use.

Findings of Fact

The subject property is zoned RRF-5 (rural residential farm forest, 5-acre minimum).

Conclusions of Law

The claim meets this criterion. The subject property is zoned for residential use.

6. Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that a claimant must establish that one or more land use regulations prohibit the establishment of the single-family dwellings.

Findings of Fact

The above reference to "the single-family dwellings" refers to the number of dwellings that would be allowable under Measure 49. As previously noted, Claimant has not provided an appraisal as required by Measure 49 that demonstrates a loss of value. Consequently, Claimant has not provided adequate information to determine the maximum number of dwellings that would be allowable under Section 9(2) of Measure 49. Because Claimant has not submitted an appraisal, it is not possible to determine whether

Metro Code Section 3.07.1110 C (Interim Protection of Areas Brought into the Urban Growth Boundary) prohibits the number of dwellings to which Claimant would be entitled under section 9(2)(c) of Measure 49. This code section establishes a temporary 20-acre minimum lot size until the effective date of amendments to comprehensive plans and implementing land use regulations comply with Metro Code

Section 3.07.1120 (Planning for Territory Added to the UGB). It does not prohibit single-family dwellings; it would allow a single-family dwelling on the parcel of the Claimant's ownership that does not now have a dwelling. But an appraisal is a pre-requisite to a determination whether Claimant is eligible for the additional dwelling under section 9(2)(c). At the time that that Metro Code Section 3.07.1110C went into effect, the property was zoned RRFF-5 with a 5-acre minimum lot size, which already precluded any further division of the property as doing so would have resulted in lots of less than 5 acres. Consequently, Metro's temporary 20-acre minimum lot size requirement did not have the effect of further restricting the subject property's use for residential purposes.

Conclusions of Law

The claim does not meet this criterion. Metro Code Section 3.07.1110C does not prohibit the establishment of single-family dwellings. Furthermore, Claimant, in failing to provide an appraisal, has not provided adequate basis to support their asserted right to divide the property into 8 single-family residential lots.

7. Exemptions under ORS 197.352(3)

Metro Code Section 2.21.030(b)(7) states that land use regulations as described in ORS 197.352(3) that prohibit the establishment of a single-family dwelling are exempt under Measure 49.

Findings of Fact

ORS 197.352(3) states that a claim cannot be made under Measure 49 for land use regulations that:

- (a) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) Restrict or prohibit activities for the protection of public health and safety;
- (c) Are required to comply with federal law; or
- (d) Restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing.

Conclusions of Law

The claim meets this criterion. Section 3.07.1110 C of the Metro Code is not exempt from Measure 49 under ORS 197.352(3).

8. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in the UGB

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the UGB.

Findings of Fact

Section 2(3) of Measure 49 defines "enacted" as enacted, adopted, or amended.

On December 5, 2002, the Metro Council expanded the UGB by adopting Ordinance No. 02-969B (effective March 5, 2003), thereby including the Claimant's property in the UGB expansion area. That same ordinance simultaneously made Metro Code Section 3.07.1110C, the land use regulation cited by Claimant, applicable to Claimant's property.

Conclusions of Law

The claim does not meet this criterion. Section 3.07.1110 C of the Metro Code was applied to the subject property simultaneously with the property's inclusion in the UGB (by the same ordinance). The regulation was not enacted after the date that the property was brought into the UGB.

9. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in Metro's Jurisdictional Boundary

Metro Code Section 2.21.030(b)(9) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro.

Findings of Fact

The entire subject property has been inside Metro's jurisdictional boundary since the January 1, 1979 establishment of the boundary. Metro Code Section 3.07.1110C was applied to the property on March 5, 2003.

Conclusions of Law

The claim meets this criterion. Metro Code Section 3.07.1110C was applied to the property after its inclusion in Metro's jurisdictional boundary.

10. Effect of the Land Use Regulation on Fair Market Value

Section 2.21.030(b)(10) of the Metro Code states that for a claim to be valid, the enactment of a land use regulation must have caused a reduction in the fair market value of the property. In order to demonstrate a reduction in value, Metro Code Section 2.21.030(c)(6) states that the Claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. Sections 9(6) and 9(7) of Measure 49 provide further details regarding how diminished value is to be determined.

Findings of Fact

Claimant has not provided an appraisal or any sales data to substantiate the asserted \$1,204,000 claim. Claimant has also not distinguished between any possible effects on value that are the result of Metro's actions versus the County's zoning of the property as RRF-5. Claimant states in a May 8, 2008, letter to Metro that they have been unable to find an appraiser who is willing to conduct an appraisal according to the standards set forth in Sections 9(6) and 9(7) of Measure 49.

Metro's temporary 20-acre minimum lot size requirement does not further restrict claimant's ability to subdivide the property beyond the property's zoning restrictions in place at the time of Metro's action (5-acre minimum lot size). Given the 7.77-acre size of the property (one lot at 2.65 acres and one lot at 5.12 acres), no further subdivision would be allowed under either the pre-existing RRF-5 zoning or under Metro's temporary 20-acre minimum lot size as any subdivision would necessarily result in at least one lot of less than five acres. Consequently, it appears unlikely that any reduction in value could be attributed to Metro Code Section 3.07.1110C.

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that Metro Code Section 3.07.1110C had the effect of reducing the fair market value of the subject property.

11. Highest and Best Use

Metro Code Section 2.21.030(b)(11) states that for a claim to be valid, at the time the land use regulation was enacted, the highest and best use of the property must have been residential use. Section 9(7)(c) of Measure 49 states that the appraisal to be provided by the Claimant must expressly determine the highest and best use of the property at the time that the land use regulation was enacted.

Findings of Fact

Claimant did not provide an appraisal, which would have established the property's highest and best use at the time that Metro Code Section 3.07.1110C was applied to the property. Consequently, Claimant has provided no evidence that the highest and best use of the property is residential use.

Report of the Chief Operating Officer

Resolution No. 08-3957

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Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that, at the time that the regulation was applied to the property, the highest and best use was residential.

12. Relief for Claimant

Findings of Fact

Waiver of Metro Code Section 3.07.1110 C 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 would be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

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

Recommendation of the Chief Operating Officer

The Metro Council should deny the Povey claim for the following reasons:

At the stated deadline, the Claimant had not provided an appraisal. The claim is incomplete and the deadline for a complete claim has passed. Therefore, the claim is not timely.

Metro Code Section 3.07.1110C (Interim Protection of Areas Brought into the Urban Growth Boundary) does not prohibit single-family residential uses.

The cited regulation does not have the effect of further limiting the Claimant's use of the property beyond what was allowable under the RRFF-5 zoning in place at the time that the Metro regulation was applied. Under the RRFF-5 zoning, no further divisions were allowable.

The cited regulations were enacted against the property simultaneously (same ordinance) with the property's inclusion in the UGB, not after its inclusion.

Claimant has failed to provide an appraisal that establishes residential use as the property's highest and best use.

Claimant has failed to provide an appraisal that demonstrates that Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B had the effect of reducing the value of the subject property.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

- Attachment 1: Site Map of the Velma Pauline Povey property
- Attachment 2: May 12, 2008 letter of tentative determination from Metro to Claimant
- Attachment 3: May 27, 2008 Claimant response to Metro's tentative determination
- Attachment 4: Velma Pauline Povey Measure 49 claim

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING ORDERS)	
RELATING TO THE VELMA PAULINE POVEY,)	Resolution No. 08-3957
LILA AND KENNETH SAXON AND TIGARD)	
SAND & GRAVEL, LLC, CLAIMS FOR)	
COMPENSATION UNDER SECTION 9 OF)	Introduced by Chief Operating Officer
CHAPTER 424 OREGON LAWS 2007 (MEASURE)	Michael Jordan with the concurrence of
49) AND METRO CODE CHAPTER 2.21)	Council President David Bragdon

WHEREAS, Velma Pauline Povey, Lila and Kenneth Saxon and Tigard Sand & Gravel, LLC., filed claims for compensation under section 9 of Chapter 424, Oregon Laws, 2007 (Measure 49), and Metro Code Chapter 2.21 contending that a Metro regulation reduced the fair market value of their properties; and

WHEREAS, all three claimants had previously filed claims with Metro under Measure 37; and

WHEREAS, the Chief Operating Officer reviewed the claims and sent notice of his tentative determinations of qualification for compensation or waiver to those entitled to notice under Metro Code 2.21.040(b); and

WHEREAS, the Metro Council considered the claims at a public hearing on July 24, 2008; now, therefore

BE IT RESOLVED that the Metro Council:

1. Enters Order No. 08-046, attached to this resolution as Exhibit A, which denies the claims.
2. Directs the Chief Operating Officer (“COO”) to send copies of the order to the claimants, the cities of Damascus, Tualatin and Sherwood, Clackamas and Washington Counties, the Oregon Department of Administrative Services and any person who participated in the public hearing, and to post the order at the Metro website.

ADOPTED by the Metro Council this 24th day of July, 2008.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 08-3957
Order No. 08-046

RELATING TO THE VELMA PAULINE POVEY, LILA AND KENNETH SAXON
AND TIGARD SAND & GRAVEL, LLC., CLAIMS FOR COMPENSATION UNDER
SECTION 9, CHAPTER 424 OREGON LAWS 2007 (MEASURE 49)

Claimants: Velma Pauline Povey; Lila and Kenneth Saxon; Tigard Sand & Gravel, LLC.

Property: City of Damascus (Povey and Saxons); Washington County (Tigard Sand & Gravel, LLC.)

Claim: Interim Protection Standard in Metro Code 3.07.1120C (Title 11) reduces the fair market value of claimants' properties (Povey and Saxon); Limitations in Metro Code 3.07.430 (Title 4) reduce the fair market value of claimant's property (Tigard Sand & Gravel, LLC.)

Claimants submitted their claims to Metro pursuant to section 9 of Chapter 424, Oregon Laws, 2007 (Measure 49), and Metro Code Chapter 2.21. This order is based upon materials submitted by the claimants and the reports prepared by the Chief Operating Officer ("COO") pursuant to section 2.21.060(g), and other materials presented at the public hearing.

The Metro Council considered the claims at a public hearing on July 24, 2008.

IT IS ORDERED THAT:

The claims of Velma Pauline Povey, Lila and Kenneth Saxon and Tigard Sand & Gravel, LLC., for compensation or waiver be denied because they do not qualify for the reasons set forth in the reports of the COO.

ENTERED this 24th day of July, 2008.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper
Metro Attorney

**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 49
AND METRO CODE CHAPTER 2.21**

REPORT OF THE METRO CHIEF OPERATING OFFICER

In Consideration of Council Order No 08-046

For the purpose of entering an order relating to the Velma Pauline Povey, Lila & Kenneth Saxon and Tigard Sand & Gravel, LLC, claims for compensation under Section 9 of Chapter 424 Oregon laws 2007 (Measure 49) and Metro Code Chapter 2.21

June 24, 2008

METRO CLAIM NUMBER: Claim No. 08-046

NAME OF CLAIMANT: Lila D. Saxon

MAILING ADDRESS: c/o Don Bowerman
Bowerman & David, PC
P.O. Box 100
Oregon City, OR 97045

PROPERTY LOCATION: SE 190th Ct., Damascus, OR

LEGAL DESCRIPTION: Township 1 South, Range 3 East, Section 32B,
Tax Lot 01700

DATE OF CLAIM: June 13, 2008

I. CLAIM

Claimant Lila D. Saxon seeks compensation in the amount of \$425,000 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 6.84-acre subject property into four single-family residential lots. The property is depicted on a map attached hereto (ATTACHMENT 1).

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on June 24, 2008. 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.oregonmetro.gov/measure49.

II SUMMARY OF COO RECOMMENDATION

The claim does not meet the basic requirements of Measure 49. The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report.

III TIMELINESS OF CLAIM

Findings of Fact

Measure 49, section 10(3) requires that if a claimant has made a Measure 37 claim against Metro before June 28, 2007, but Metro did not make a final decision on the Measure 37 claim before the effective date of Measure 49, Metro shall send notice to the claimant within 90 days after the effective date of Measure 49, notifying the claimant of their right to seek relief under Measure 49.

The Claimant submitted a Measure 37 claim on November 28, 2006. The claim identified Metro Code section 3.07.1110 C as the basis of the claim. Claimant's Measure 37 claim was made before June 28, 2007.

The Metro Council heard the Saxon Measure 37 claim against Metro on March 22, 2007. At that hearing, the Metro Council denied the claim. The Saxon claim under former Measure 37 is currently in litigation. The Circuit Court for Clackamas County entered judgment for the Saxons. Metro has appealed the judgment to the Oregon Court of Appeals. The outcome of that case could affect the Saxon claim under Measure 49. But, a ruling from the Court of Appeals is not expected until 2009, well beyond the deadline for decision by the Council on the Measure 49 claim.

Because the claim remains on appeal, Metro sent notice to Claimant on February 14, 2008, notifying Claimant of her rights under Measure 49. That notice was timely as it was sent within 90 days of December 6, 2007, the effective date of Measure 49.

Notified claimants have 120 days after the date of that notice to inform Metro, in writing, of their intention to continue the claim and to file the information required under Measure 49. That required information includes, but is not limited to, an appraisal, prepared as described in Sections 9(6) and 9(7) of Measure 49.

On June 13, 2008, Claimant filed an amended claim against Metro under Measure 49. That claim was timely as it was filed within 120 days of the February 14, 2008 notice from Metro.

Metro staff conducted a preliminary completeness review of Claimant's Measure 49 claim and sent a letter of tentative determination to Claimant on June 13, 2008 (ATTACHMENT 2). In that letter, staff tentatively determined that the claim was incomplete because the appraisal provided by Claimant had not been conducted according to the standards found in Measure 49 and Metro Code 2.21.030(c)(6), that the claim did not meet Measure 49's basic requirements for validity, and that the claimant was not entitled to relief under Section 9 of Measure 49.

As of the date of this report, the claim is incomplete as it lacks an adequate appraisal.

Conclusions of Law

The claim does not meet this criterion. By the date of this report, Claimant had not submitted an appraisal conducted according to the standards found in Measure 49 and Metro Code 2.21.030(c)(6). The claim, at this time is incomplete.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code Section 2.21.030(b)(1) states that for a claim to be valid, the claimant must be an owner of the property.

Findings of Fact

Metro Code section 2.22.020(d) defines "owner" to mean:

Report of the Chief Operating Officer

Resolution No. 08-3957

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- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
- (3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Claimant, Lila Saxon, states that she and her then husband, Michael Rask, acquired an interest in the 6.84-acre subject property through a Contract recorded on June 30, 1965. The 1965 Contract was for a phased purchase of 10 acres, with a Warranty Deed recorded for each phase. Claimant included in the claim a Quitclaim Deed from Michael Rask to claimant, recorded in 1971 (exact date illegible). This Quitclaim Deed was the result of a divorce between Claimant and Michael Rask. Claimant also submitted a copy of a Warranty Deed, recorded on August 11, 1981, for their acquisition of the property. Additional title research by Metro staff indicates that in 1986 the Claimant entered into a contract to sell the parcel to Cheryl Olin who subsequently defaulted on the contract and, by an Estoppel Deed recorded on June 6, 1988, conveyed the parcel back to Claimant.

Conclusions of Law

The claim meets this criterion. The Claimant, Lila D. Saxon, is the sole owner of the subject property as defined in the Metro Code and has had continuous ownership of the property since June 6, 1988, the date that the property was conveyed back to the Claimant after the defaulted contract to sell.

2. Consent of All Owners

Metro Code Section 2.21.030(b)(2) states that for a claim to be valid, all owners must consent in writing to the filing of the claim.

Findings of Fact

Claimant, Lila Saxon is the sole owner of the property and has consented in writing to the filing of the claim.

Conclusions of Law

The claim meets this criterion. All owners of the property have consented in writing to the filing of the claim.

3. Location of property within Metro UGB

Metro Code Section 2.21.030(3) ("Filing an Amended Claim") states that in order to qualify for compensation or waiver by Metro, a property must be wholly or partially located within Metro's UGB.

Findings of Fact

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

Conclusions of Law

The claim meets this criterion. The subject property is wholly within the Metro UGB.

4. Allowed number of single-family dwellings

Metro Code Section 2.21.030(4) states that for a claim to be valid, the claimant, on the claimant's property acquisition date, lawfully must have been permitted to establish at least the number of dwellings

on the property that are authorized under Ballot Measure 49. Section 9(2) of Measure 49 states that the number of single-family dwellings that may be established may not exceed the lesser of:

- (a) The number of single-family dwellings described in a waiver issued by Metro, a city or a county before the effective date of Measure 49 (December 6, 2007) or, if a waiver was not issued, the number described in the claim filed with Metro, a city or a county;
- (b) 10, except that if there are existing dwellings on the property, the number of single-family dwellings that may be established is reduced so that the maximum number of dwellings, including existing dwellings located on the property, does not exceed 10; or
- (c) The number of single-family dwellings the total value of which represents just compensation for the reduction in fair market value caused by the enactment or one or more land use regulations that were the basis for the claim

Findings of Fact

Clackamas County designated the subject property as RRFF-5 (Rural Residential, Farm/Forestry, 5-acre minimum lot size) on December 17, 1979 (recorded June 19, 1980). This same RRFF-5 zoning applied to the property at the time of Claimant's acquisition on June 6, 1988 and at the time of Metro's action to include the subject property in the UGB. Under the RRFF-5 zoning designation, one dwelling unit per lot is allowable with minimum lot size being five acres.

Metro has not issued a waiver to the Claimant of the 20-acre minimum lot size requirement found in Section 3.07.1110 C of the Metro Code. On February 20, 2007, the City of Damascus, in response to a Measure 37 the Claimant's claim under Measure 37, issued a waiver of the RRFF-5 zoning.

There are no existing single-family residences on the 6.84-acre property.

Claimant provided an appraisal of the property, but it was not performed according to the standards found in Metro Code Section 2.21.030(c)(6) and Measure 49 Section 9(6) and 9(7). The appraisal's deficiencies are addressed in section 10 of this report.

Conclusions of Law

The claim does not adequately address this criterion. As described in Section 9(2) of Measure 49, the maximum number of allowable single-family dwellings is the lesser of choices a, b, and c (detailed above). In order to make that determination, there must be a quantification of diminished value (if any) that is attributable to the cited Metro regulation. Because Claimant has not provided an appraisal performed according to the standards specified by Metro Code and Measure 49, Claimant has not provided adequate information to establish a right under Measure 49 to divide the property into four single-family lots.

5. Residential use

Metro Code Section 2.21.030(5) states that a claimant must establish that the property is zoned for residential use.

Findings of Fact

The subject property is zoned RRFF-5 (rural residential farm forest, 5-acre minimum).

Conclusions of Law

The claim meets this criterion. The subject property is zoned for residential use.

6. Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that a claimant must establish that one or more land use regulations prohibit the establishment of the single-family dwellings.

Findings of Fact

The above reference to “the single-family dwellings” refers to the number of dwellings that would be allowable under Measure 49. As previously noted, Claimant has not provided an appraisal that meets the standards set forth in Measure 49. Consequently, Claimant has not provided adequate information to determine the maximum number of dwellings that would be allowable under Section 9(2) of Measure 49.

Because Claimant has not submitted an adequate appraisal, it is not possible to determine whether Metro Code Section 3.07.1110 C (Interim Protection of Areas Brought into the Urban Growth Boundary) prohibits the number of dwellings to which Claimant would be entitled under section 9(2)(c) of Measure 49. This code section establishes a temporary 20-acre minimum lot size until the effective date of amendments to comprehensive plans and implementing land use regulations comply with Metro Code Section 3.07.1120 (Planning for Territory Added to the UGB). It does not prohibit single-family dwellings. But, an appraisal is a pre-requisite to a determination whether Claimant is eligible for the additional dwelling under Section 9(2)(c) of Measure 49.

At the time that that Metro Code Section 3.07.1110C went into effect, the property was zoned RRFF-5 with a 5-acre minimum lot size, which already precluded any further division of the property as doing so would have resulted in lots of less than 5 acres. Consequently, Metro’s temporary 20-acre minimum lot size requirement did not have the effect of further restricting the subject property’s use for residential purposes.

Conclusions of Law

The claim does not meet this criterion. Metro Code Section 3.07.1110C does not prohibit the establishment of single-family dwellings. Furthermore, Claimant, in failing to provide an appraisal that meets the standards set forth in Sections 9(6) and 9(7) of Measure 49, has not provided adequate basis to support their asserted right to divide the property into four single-family residential lots.

7. Exemptions under ORS 197.352(3)

Metro Code Section 2.21.030(b)(7) states that land use regulations as described in ORS 197.352(3) that prohibit the establishment of a single-family dwelling are exempt under Measure 49.

Findings of Fact

ORS 197.352(3) states that a claim cannot be made under Measure 49 for land use regulations that:

- (a) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) Restrict or prohibit activities for the protection of public health and safety;
- (c) Are required to comply with federal law; or
- (d) Restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing.

Conclusions of Law

The claim meets this criterion. Section 3.07.1110 C of the Metro Code is not exempt from Measure 49 under ORS 197.352(3).

8. Timing of the Enactment of the Metro Regulation and the Property’s Inclusion in the UGB

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the UGB.

Findings of Fact

Section 2(3) of Measure 49 defines “enacted” as enacted, adopted, or amended.

On December 5, 2002, the Metro Council expanded the UGB by adopting Ordinance No. 02-969B (effective March 5, 2003), thereby including the Claimant’s property in the UGB expansion area. That same ordinance simultaneously made Metro Code Section 3.07.1110C, the land use regulation cited by Claimant, applicable to Claimant’s property.

Conclusions of Law

The claim does not meet this criterion. Section 3.07.1110 C of the Metro Code was applied to the subject property simultaneously with the property’s inclusion in the UGB (by the same ordinance). The regulation was not enacted after the date that that the property was brought into the UGB.

9. Timing of the Enactment of the Metro Regulation and the Property’s Inclusion in Metro’s Jurisdictional Boundary

Metro Code Section 2.21.030(b)(9) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro.

Findings of Fact

The entire subject property has been inside Metro’s jurisdictional boundary since the January 1, 1979 establishment of the boundary. Metro Code Section 3.07.1110C was applied to the property on March 5, 2003.

Conclusions of Law

The claim meets this criterion. Metro Code Section 3.07.1110C was applied to the property after its inclusion in Metro’s jurisdictional boundary.

10. Effect of the Land Use Regulation on Fair Market Value

Section 2.21.030(b)(10) of the Metro Code states that for a claim to be valid, the enactment of a land use regulation must have caused a reduction in the fair market value of the property. In order to demonstrate a reduction in value, Metro Code Section 2.21.030(c)(6) states that the Claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. Sections 9(6) and 9(7) of Measure 49 provide further details regarding how diminished value is to be determined.

Findings of Fact

Claimant has provided an appraisal, but it does not meet the standards set forth in Sections 9(6) and 9(7) of Measure 49. The appraisal, performed by Thomas J. Williams and dated November 30, 2007, asserts current (as of November 30, 2007) values for the property were it divided into several different lot configurations and compares that to the current (as of November 30, 2007) value of the 6.84-acre property if no further divisions are allowed. The appraisal makes no mention of a Metro regulation. Furthermore, the appraisal does not, as required by Measure 49, examine the value of the property on March 5, 2002 (a year before the effective date of Metro Code Section 3.07.1110C, as applied by Metro Ordinance No. 02-969B) and on March 5, 2004 (a year after the effective date of Metro Code Section 3.07.1110C, as applied by Metro Ordinance No. 02-969B).

Metro’s temporary 20-acre minimum lot size requirement does not further restrict Claimant’s ability to subdivide the property beyond the property’s zoning restrictions (5-acre minimum lot size) in place at the time of Metro’s action. Given the 6.84-acre size of the property, no further subdivision would be allowed

under either the pre-existing RRF-5 zoning or under Metro's temporary 20-acre minimum lot size as any subdivision would necessarily result in at least one lot of less than five acres. Consequently, it appears unlikely that any reduction in value could be attributed to Metro Code Section 3.07.1110C.

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that Metro Code Section 3.07.1110C caused a reduction in the fair market value of the subject property. Because this Metro regulation does not further restrict the Claimant's use of the property beyond what was allowed under the previous RRF-5 zoning, it appears unlikely that Metro Code Section 3.07.1110C could have caused a decrease in value.

11. Highest and Best Use

Metro Code Section 2.21.030(b)(11) states that for a claim to be valid, at the time the land use regulation was enacted, the highest and best use of the property must have been residential use. Section 9(7)(c) of Measure 49 states that the appraisal to be provided by the Claimant must expressly determine the highest and best use of the property at the time that the land use regulation was enacted.

Findings of Fact

The appraisal provided by the Claimant states that on November 30, 2007, the highest and best use of the property was single-family residential use. However, the appraisal is silent on the highest and best use of the property at the time that Metro Code Section 3.07.1110C was applied to the property (March 5, 2003).

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that, at the time that the cited regulation was applied to the property, the highest and best use was residential.

12. Relief for Claimant

Findings of Fact

Waiver of Metro Code Section 3.07.1110 C would allow the Claimant to apply to the City of Damascus to divide the subject property into four one-acre lots and to develop a single-family dwelling on each lot. The effect of development as proposed by the Claimant would be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

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

Recommendation of the Chief Operating Officer

The Metro Council should deny the Saxon claim for the following reasons:

As of the date of this report, the Claimant has not provided an appraisal that met the requirements set forth in Measure 49. As of the date of this report, the claim is incomplete.

Metro Code Section 3.07.1110C (Interim Protection of Areas Brought into the Urban Growth Boundary) does not prohibit single-family residential uses.

The cited regulation does not have the effect of further limiting the Claimant's use of the property beyond what was allowable under the RRRF-5 zoning in place at the time that the Metro regulation was applied. Under the RRRF-5 zoning, no further divisions were allowable.

The cited regulations were applied to the property simultaneously (same ordinance) with the property's inclusion in the UGB, not after its inclusion.

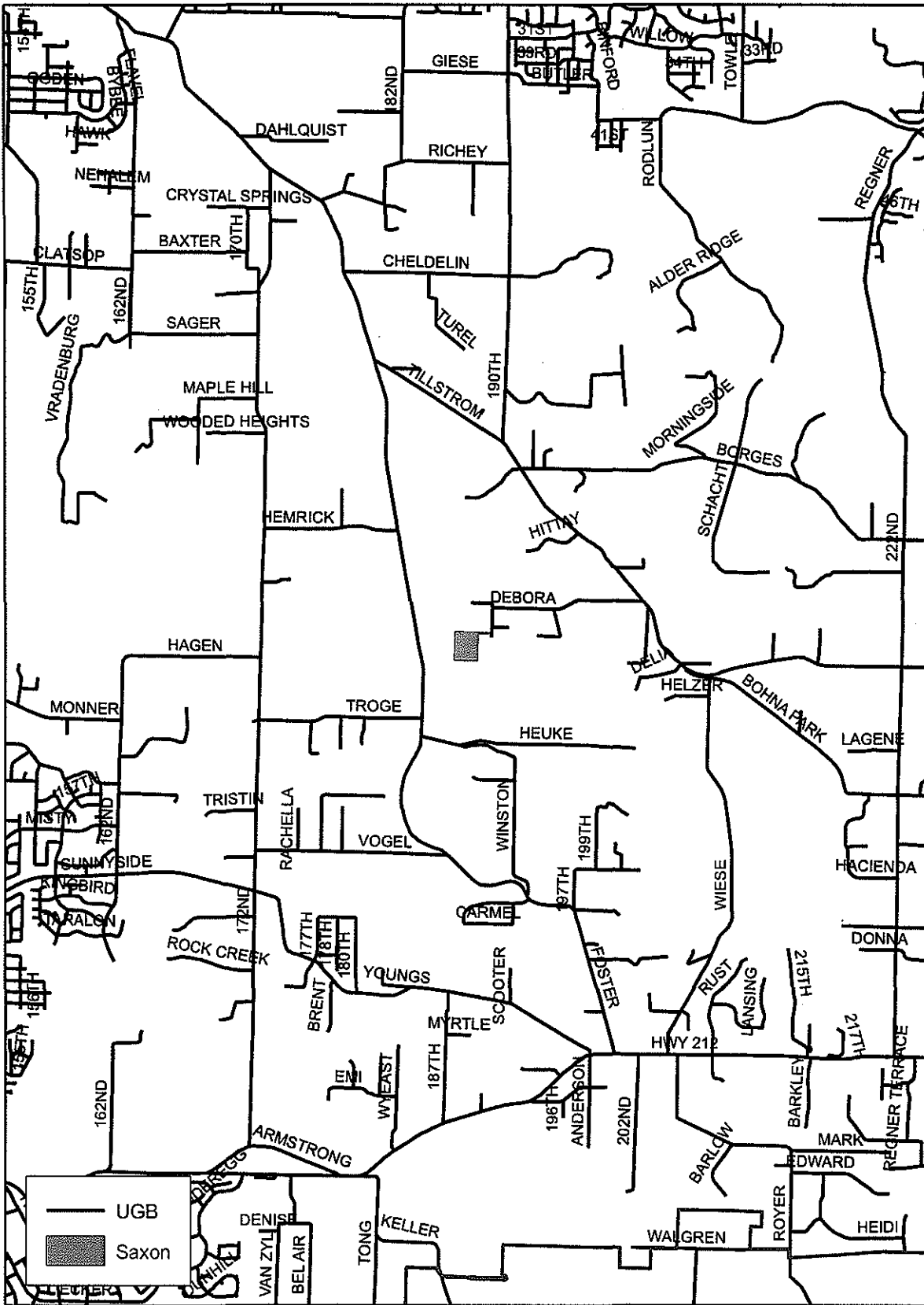
Claimant has failed to provide an appraisal that establishes residential use as the property's highest and best use at the time that the cited Metro regulation was enacted.

Claimant has failed to provide an appraisal performed according to the standards set forth in Measure 49 that demonstrates that Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B had the effect of reducing the value of the subject property.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

- Attachment 1: Site Map of the Lila D. Saxon property
- Attachment 2: June 13, 2008 letter of tentative determination from Metro to Claimant
- Attachment 3: Lila D. Saxon Measure 49 claim

Attachment 1 to COO Report



0 1,750 3,500 7,000 Feet





METRO

June 13, 2008

Don Bowerman
Bowerman & David, PC
P.O. Box 100
Oregon City, OR 97045

RE: Lila Saxon Measure 49 claim against Metro
Property Location: Damascus, Oregon
Legal Description: Township 1 South, Range 3 East, Section 32B, Tax Lot 01700

Dear Mr. Bowerman:

We are in receipt of your client, Lila Saxon's, Measure 49 claim against Metro. Pursuant to Section 10(4) of Measure 49, Metro has conducted a tentative review of the claim and has determined that, based upon the information you have submitted, the claimant does not qualify for relief under Section 9 of Measure 49. Pursuant to Section 10(4) of Measure 49, your client has fifteen (15) days from the date of this notice to submit additional evidence to support the claim, after which date the Metro Council will make a final determination on the claim.

Metro's tentative review of the claim identified the following deficiencies:

Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that for a claim to be valid, a claimant must establish that one or more land use regulations prohibit the establishment of single-family dwellings. The claimant has correctly stated in the claim that no Metro regulation prohibits the establishment single-family dwellings.

Timing of regulation

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the urban growth boundary (UGB). The claimant cites Metro Code Section 3.07.1110 (Interim Protection of Areas Brought into the Urban Growth Boundary) as the basis for the claim. As stated in the claimant's filing, Metro Ordinance No. 02-969B applied the cited regulation to the property and brought the property into the UGB. Because these two actions were by the same ordinance, they were simultaneous. The regulation was not applied after the property was brought into the UGB.

Appraisal required

For a claim to be valid, a claimant must provide an appraisal, performed according to the standards set forth in Measure 49 Sections 9(6) and 9(7) and section 2.21.050(b)(6), that demonstrates a decrease in fair market value that was caused by the cited regulation. The appraisal must, in part, show the fair market value of the property one year before the enactment of the land use regulation that is the basis of the claim and the fair market value of the property one year after the enactment. The appraisal submitted by the claimant does not meet those standards. The submitted appraisal only shows the current fair market value

of the property with and without the ability to divide the property into several different lot configurations. The appraisal also makes no mention of the effect of a Metro regulation.

Additionally, Metro's review has determined that at the time of the application of Metro Code Section 3.07.1110 by Ordinance No. 02-969B to the property (March, 2003), it was zoned RRFF-5 (rural residential, farm/forestry, 5-acre minimum lot size). The Saxon property is 6.84 acres. No further division of the property would have been allowed under the RRFF-5 zoning, as any division would have resulted in at least one parcel of less than 5 acres. Thus, the temporary 20-acre minimum lot size requirement placed on the property by Metro Code section 3.07.1110(C) did not reduce the number of lots that are allowable and is not likely to have caused a reduction in the value of the property.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ted Reid', with a stylized flourish at the end.

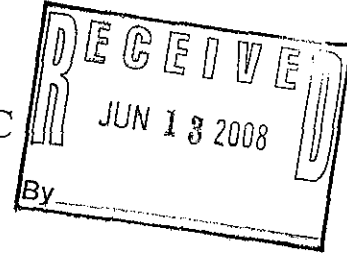
Ted Reid
Long Range Policy and Planning
(503) 797-1768
Ted.Reid@oregonmetro.gov

Cc: City of Damascus
DLCD

BOWERMAN & DAVID, PC

ATTORNEYS AT LAW

1001 Molalla Avenue, Suite 208
Mailing Address: P.O. Box 100
Oregon City, Oregon 97045



(503) 650-0700
Fax: (503) 650-0053

Attorneys

DONALD B. BOWERMAN
KRISTEN S. DAVID

Legal Assistants

TRISH KUNTZ
LISETTE LOWE

June 12, 2008

METRO - Land Use Planning
Office of the Chief Operating Officer
600 NE Grand Avenue
Portland, OR 97232-2736

Re: Measure 49 Claim
Claimant: Lila Saxon
Saxon v. METRO
Clackamas County Circuit Court Case No. CV 0705190

To Whom It May Concern,

Enclosed is a copy of the Measure 49 Claim Form together with the required owner's consent and supplemental information.

If you have any questions, please feel free to give me a call.

Very truly yours,

A handwritten signature in cursive script that reads "Kristen S. David".

Kristen S. David

Enclosures
KSD/tk

cc: Lila Saxon

Metro Measure 49 Claim Form

Claimants are also required to submit the items listed on the back of this form

Claimant name: Lila Saxon
Claimant mailing address: c/o Don Bowerman, Bowerman & David, PC.
P.O. Box 100
Oregon City, OR 97045
Claimant phone number: 503-650-0700

- 1) Are you an owner of the property? Yes.
- 2) Are there other owners of the property? No.
- 3) If there are other owners, do they all consent to the filing of this claim?
Please have all owners sign the attached consent form.
- 4) On what date did you acquire the property? June 8, 1965
- 5) Have you had continuous ownership of the property since you acquired it? Yes
- 6) Is the property located, in whole or in part, inside the Metro urban growth boundary?
Yes.
- 7) On the date of your acquisition of the property, how many dwelling units were you lawfully permitted to establish on the property? 6.
- 8) Is the property currently zoned for residential use? Yes.
- 9) Does a Metro land use regulation prohibit the establishment of a single-family dwelling on the property? No.
- 10) Is there currently a dwelling unit on the property? No.
If so, how many dwelling units are there?
- 11) Have you provided Metro with all of the additional items listed on the back of this form?
Yes.

We the undersigned property owners consent to the filing of this Measure 49 claim against Metro: (attach additional sheet if necessary)

Name, Address, and Phone #	Date	Signature
Lila Saxon 3104 NE Regents Dr. Portland, OR 97212	5-27-08	<i>Lila D. Saxon</i>

Measure 49 Claimant: Lila Saxon
Property: T1S, R3E, Sect 32B, TL 1700.

SUPPLEMENTAL INFORMATION

1. Title: The following exhibits establish the location of the property and that Claimant acquired an ownership interest in the property on June 8, 1965.
 - Exhibit A: Clackamas County Deed Registry.**
 - Exhibit B: Purchase Contract.**
 - Exhibit C: Quitclaim Deed.**
 - Exhibit D: Warranty Deed.**
 - Exhibit E: Clackamas County Tax Statements.**
 - Exhibit F: Clackamas County Tax Assessor Map.**
 - Exhibit G: Aerial Map.**

3. Metro Land Use Regulations which reduce value of property: Claimant acquired the property on June 8, 1965 when the zoning was RA-1. Pursuant to Metro Ordinance #02-969B, the subject property was placed into the Urban Growth Boundary on December 5, 2002. Ordinance #02-969B also imposed a temporary 20-acre minimum parcel size on all land added to the UGB, until the City of Damascus adopts a new comprehensive plan provisions and land use regulations under Metro Code 3.07.1110.
At the time claimant acquired the property she could place 6 dwellings on the subject property. Under the current regulations imposed by METRO, claimant can only place one dwelling.
 - Exhibit H: Ordinance #02-969B**

4. County Land Use Regulations: RRFF-5
 - Exhibit I: RRFF-5 zoning.**

5. Appraisal: The appraisal from a Certified Residential Appraiser establishes that when the property was acquired, Claimant could have easily constructed four homesites for a value of the property of not less than \$800,000. After the enactment of RRFF-5, the property can only have 1 dwelling and therefore has an average value of \$375,000. Therefore, the reduction in fair market value is \$425,000.
 - Exhibit J: Appraisal - Thomas J. Williams.**

6. Description of Claimant's Proposed Use: Due to the terrain and location, claimant seeks 4 dwellings on the 6.84 acres.

8. Other Filings: Claimant filed a Measure 37 claim with City of Damascus through Clackamas County Planning. The City granted the Measure 37 claim as evidenced in the City of Damascus Resolution No. 07-127.
 - Exhibit K: City of Damascus Resolution No. 07-127**

OFFICIAL RECORD OF DESCRIPTIONS

OFFICIAL RECORD OF DESCRIPTIONS
OF REAL PROPERTY
CLACKAMAS COUNTY ASSESSOR

1 3E 32 B 1700

302-02
302-04

TWP S	RGE	SEC	1/4	1/16	TAX LOT NUMBER	TYPE	SPEC. INT. IN REAL PROP	CODE AREA NUMBER

ACCOUNT NUMBER

FORMERLY PART OF T.L. NO.

ACRES REMAINING	DEED RECORD VOL.	PG.	Date of Entry on this Card	DESCRIPTION
	71	5427	Posted	
	637	358		
	660	705		
6.86	659	412		Pieren, William & Ruby R. % Rask, Michael R. & Lila D
6.84			9-21-66	Exc. Public Rd 0.02
	71	5427	2-1-74	Pieren William & Ruby R. % Rask Lila Dagny
			7-16-79	Ann. 1 MSB 16.12.6 1-1-79
	81	3812	8-19-81	Saxon, Lila D.
	86	18619	4-30-86	Posted
	86	106220	4-30-86	Saxon, Lila D.
	88	22320	7-20-88	% Olin, Cheryl A.
				SAXON, LILA D.

THIS AGREEMENT, made and entered into this 8TH day of June, 1965, by and between DON C. TOOLEY and GLADYS M. TOOLEY, husband and wife hereinafter referred to as "Sellers," and MICHAEL R. RASK and LILA D. RASK, husband and wife, hereinafter referred to as "Buyers."

W I T N E S S E T H :

In consideration of the stipulations herein contained and the payments to be made as hereinafter specified, Seller agrees to sell to Buyer, and the Buyer agrees to purchase from Seller, the following described real property, situated in the County of Clackamas, State of Oregon, described as follows, to-wit:

Part of Section 32, T.1.S.R.3.E., of the W.M., in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the Northwest corner of the Southeast quarter of the Northwest quarter of said Section 32; thence North $89^{\circ} 25' 20''$ East along the North line of said legal subdivision 737 feet; thence South $0^{\circ} 09' 20''$ East 730 feet to the true place of beginning of the tract to be described; thence South $89^{\circ} 25' 20''$ West 737 feet to the West line of the Southeast quarter of the Northwest quarter of said Section 32; thence South $0^{\circ} 09' 20''$ East along the subdivision line, 591 feet to the Southwest corner of the Southeast quarter of the Northwest quarter of said section; thence North $89^{\circ} 24' 10''$ East along the South line of said legal subdivision 737 feet to a point which is 580.84 feet West of the center of said section 32; thence North $0^{\circ} 09' 20''$ West 591 feet to the place of beginning. TOGETHER WITH and subject to an easement for roadway purposes over and across the East 50 feet of the North 110 feet of the subject property extending Northerly and Easterly over the present traveled roadway to Market Road No. 30.

Exhibit B:
Page 1 of 6

For the sum of NINE THOUSAND DOLLARS (\$9,000.00), hereinafter called the purchase price, on account of which FOUR THOUSAND DOLLARS (\$4,000.00) is paid on the execution hereof, the receipt of which is hereby acknowledged by the Seller; the Buyer agrees to pay the remainder of said purchase price, to-wit: FIVE THOUSAND DOLLARS (\$5,000.00) to the order of the Seller in monthly payments of not less than \$42.20, each payable on the 25th day of each month hereafter, beginning with the month of July, 1965, and continuing until the said purchase price is fully paid. All of said purchase price may be paid at any time, with no penalties; all deferred balances of said purchase price shall bear interest at the rate of six (6%) per cent per annum from June 25, 1965, until paid, interest to be paid monthly and being included in the minimum monthly payments above required. Taxes on said premises for the current year shall be prorated between the parties hereto as of the date of this contract.

The Buyer shall be entitled to possession of said lands on the date of closing, and may retain such possession so long as he is not in default under the terms of this contract. The Buyer agrees that all times he will keep said premises free from mechanics' and all other liens, and save the Seller harmless therefrom and reimburse Seller for all costs incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that if the Buyer shall fail to

pay any such liens, costs, water rents, taxes or charges. Attachment 3 to COO Report
the Seller may do so and any payment so made shall be added
to and become a part of the debt secured by this contract
and shall bear interest at the rate aforesaid, without
waiver, however, of any right arising to the Seller for
Buyer's breach of contract.

The Seller agrees that, at his expense, at the
time of the closing of this real estate contract, he will
furnish unto Buyer a title insurance policy insuring (in an
amount equal to said purchase price) marketable title in and
to said premises in the Seller on or subsequent to the date
of this agreement, save and except the usual printed excep-
tions and the building and other restrictions and easements
now of record, if any.

It is further agreed between the parties that the
Seller will provide for Buyer an acreage release clause re-
leasing individual parcels of this property in accordance
with the schedule as follows: At the time of closing, Seller
will execute a warranty deed to approximately three acres
of the southeast corner of the ten-acre tract, beginning 32
feet south of the north boundary and running to the south
boundary, a distance of 559 feet and running west of the
east boundary, a distance of 245 feet; and at such time as
an additional \$3,000.00 has been paid on the principal bal-
ance (leaving a balance due on the purchase price of \$2,000.00)
then an additional three acres immediately west of the above-
released portion, beginning 32 feet south of the north boun-
dary and running to the south boundary, a distance of 559
feet, and running west of the above-released tract a distance
of 245 feet, shall be transferred by warranty deed to Buyer
by Seller. When the entire \$9,000.00 has been paid, then the

remaining area, from this ten-acre tract, including the 32 foot strip immediately south of the north boundary will be transferred to the Buyer by the Seller, who will issue a warranty deed. All warranty deeds by the Seller to the Buyer will convey all of the property remaining unto Buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since the date placed, permitted or arising by, through or under Seller; excepting, however, the easements and restrictions, and the taxes, municipal liens, water rents and public charges so assumed by the Buyer, and further excepting all liens and encumbrances created by the Buyer or his assigns.

It is further agreed between the parties herein that the Seller shall subordinate and release any and all lands necessary for the Buyer to secure financing for the construction of a dwelling on this property, it being agreed that whatever land necessary for the purchase hereof shall be released by the Seller in favor of a lending institution, and at such time as the lending institution shall be paid off, that the Seller's lien against said property shall be reinstated.

It is further agreed that the Seller shall have a secondary lien on any and all properties released pursuant to this ~~contract~~ ^{L.R.} ~~provision~~ ^{provision}, *SCT* *L.R.*

It is further understood and agreed between said parties that time is of the essence of this contract, and in case the Buyer shall fail to make the payments above required, or any of them, punctually within fifteen days of the time limited therefor, or fail to keep any agreement herein contained, then the Seller, at his option, shall have the following rights:

- (1) To declare the whole unpaid principal balance of said purchase price, with interest thereon, at once

(2) To foreclose this contract by suit in equity.

In any of such cases, all rights and interests created or then existing in favor of the Buyer as against the Seller hereunder shall cease and determine, and the right to the possession of the premises above-described and all other rights acquired by the Buyer hereinafter shall revert to and reinvest in said Seller without any act of re-entry or any other act of said Seller to be performed, and without any right of the Buyer of return, reclamation or compensation for moneys paid on account of the purchase price of said property. And the said Seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The Buyer agrees that failure by the Seller at any time to require performance by the Buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said Seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the Buyer and Seller both agree to pay such sums as the Court may adjudge reasonable as attorney's fees, said sum to be allowed the prevailing party in such suit or action.

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

Don C. Fovle
Seller

Michael Black
Buyer

Lady M. Tooley

Lisa D. Paul

STATE OF OREGON)
) ss
County of Multnomah)

On this -8th day of June, 1965, before me, the undersigned, a notary public in and for said county and state, personally appeared the within named DON C. TOOLEY and GLADYS M. TOOLEY, husband and wife, known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

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



[Handwritten Signature]

Notary Public for Oregon

My commission expires: COMMISSION EXPIRES SEPT. 26, 1968

STATE OF OREGON)
) ss.
County of Multnomah)

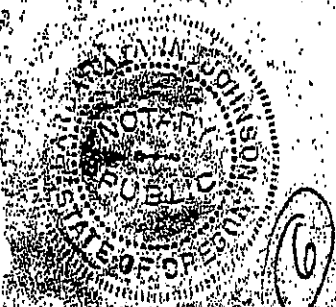
On this 23 day of June, 1965, before me, the undersigned, a notary public in and for said county and state, personally appeared the within named MICHAEL R. RASK and LILA D. RASK, husband and wife, known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

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

[Handwritten Signature]

Notary Public for Oregon

My commission expires: 1/23/68



MICHAEL RAYMOND RASK, a

has the consideration hereinafter stated, then hereby conveys, returns and relinquish unto
LILA DAGNY RASK, a single person

hereinafter called grantee, and unto grantee's heirs, successors and assigns all of the grantor's right, title and interest
in that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in any-
wise appertaining, situated in the County of Clackamas, State of Oregon, described as follows, to-wit:

Part of Section 32, T. 1 S. R. 3, E. of the W. M. in the County of Clackamas,
State of Oregon, more particularly described as follows:

Beginning at the Northwest corner of the Southeast quarter of the Northwest
quarter of said Section 32; thence North 89°25'20" East along the North line
of said legal subdivision 737 feet, thence South 0°9'20" East 730 feet to the
true place of beginning of the tract to be described; thence South 89°25'20"
East along the subdivision line, 591 feet to the Southwest corner of the
Southeast quarter of the Northwest quarter of said Section; thence North
89°24'10" East along the South line of said legal subdivision 737 feet to a
point which is 580.84 feet West of the center of said Section 32; thence North
0°09'20" West 591 feet to the place of beginning. TOGETHER WITH and sub-
ject to an easement for roadway purposes over and across the East 50 feet
of the North 110 feet of the subject property extending Northerly and Easterly
over the present traveled roadway to Market Road Number 30.

1 3 E 32 B

Desc. in error

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

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
part of the consideration (indicate which).

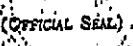
In construing this deed the singular includes the plural as the circumstances may require.

Witness grantor's hand this 3 day of March, 1971
Michael Raymond Rask

STATE OF OREGON, County of Clackamas, ss. *MWR* 3/8 1971
Personally appeared the above named Michael Raymond Rask

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

Before me: *[Signature]*
Notary Public for Oregon
My commission expires 12/16/71



NOTE: The difference between the symbols ©, if not applicable, should be deleted. See Chapter 442, Oregon Laws 1967, as amended by the 1967 Special Session.

QUITCLAIM DEED
MICHAEL RAYMOND RASK

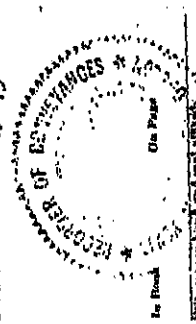
TO
LILA DAGNY RASK

After Recording Return to
William F. Thomas
Attorney at Law
606 Morgan Building
Portland, Oregon 97205

STATE OF OREGON,
County of Clackamas,

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

DEED
1971 3 8 454



Witness my hand and official seal this 8th day of March, 1971.
[Signature]
County Clerk

Recording Certificate

TK 13E 3 B 1700
I think Very Poor Deed 1800

FORM 7 (82) Street View (see Publishing Co. Portland, Or. 97234)

WARRANTY DEED—STATUTORY FORM
INDIVIDUAL GRANTEE

RUBY R. PIEREN, surviving wife of WILLIAM PIEREN, Deceased
Grantor,
conveys and warrants to LILA D. SAXON, formerly LILA D. RASK, and successor,
in interest of MICHAEL R. RASK
Grantor, the following described real property free of encumbrances
except as specifically set forth herein situated in Clackamas County, Oregon, to-wit:

SEE ATTACHED

The said property is free from encumbrances except building and other restrictions,
easements of record and any liens or encumbrances coming against the
premises on or after June 8, 1965, by act or omission of the grantee
and her predecessors in interest

The true consideration for this conveyance is \$5,000.00. (Here comply with the requirements of ORS 91.030)

Dated this 27th day of April, 1981
Ruby R. Pieren

RUBY R. PIEREN

STATE OF OREGON, County of Multnomah, Personally appeared the above named RUBY R. PIEREN

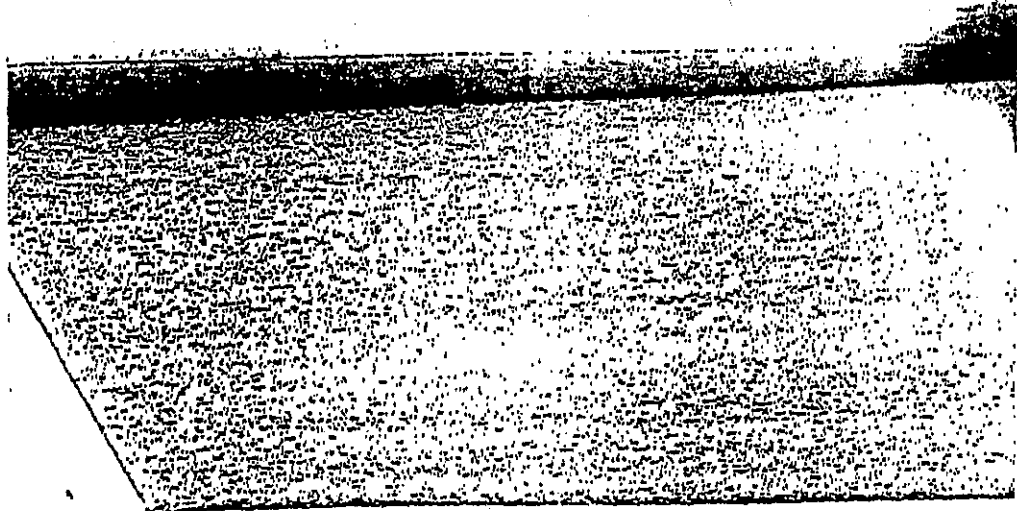
and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me: [Signature] Notary Public for Oregon—My commission expires: 3-17-82

WARRANTY DEED
GRANTOR
GRANTEE
After recording return to:
NAME, ADDRESS, ZIP
Until a change is requested, all tax statements shall be sent to the following address:

STATE OF OREGON,
County of
I certify that the within instrument was received for record on the day of 1981 at Clackamas, and recorded in book reel/volume No. on page or as document fee file instrument/microfilm No. Record of Deeds of said county.
Witness my hand and seal of County affixed.
NAME TITLE
By Deputy

81 28112



1 3E 32B 1700, 1800-

Part of Section 32, T.1.S.R.3.E., of the W.M., in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at the Northwest corner of the Southeast quarter of the Northwest quarter of said Section 32; thence North 89° 25' 20" East along the North line of said legal subdivision 737 feet; thence South 0° 09' 20" East 730 feet to the true place of beginning of the tract to be described; thence South 89° 25' 20" West 737 feet to the West line of the Southeast quarter of the Northwest quarter of said Section 32; thence South 0° 09' 20" East along the subdivision line, 591 feet to the Southwest corner of the Southeast quarter of the Northwest quarter of said section; thence North 89° 24' 10" East along the South line of said legal subdivision 737 feet to a point which is 580.6 feet West of the center of said Section 32; thence North 0° 09' 20" West 591 feet to the place of beginning. TOGETHER WITH and subject to an easement for roadway purposes over and across the East 50 feet of the North 110 feet of the subject property extending Northerly and Easterly over the present traveled roadway to Market Road No. 30

STATE OF OREGON
County of Clackamas

I, George D. Koppert, County Clerk, Es-Office Recorder of Clackamas, and Es-Office Clerk of the Circuit Court of the County of Clackamas, do hereby certify that the within instrument of writing was received for and recorded in the records of said county at

81 AUG 11 AM 11:21



7/1/2007 to 6/30/2008 REAL PROPERTY TAX STATEMENT Attachment 3 to COO Report
 CLACKAMAS COUNTY, OREGON * 168 WARNER MILNE RD. * OREGON CITY, OREGON 97045

PROPERTY DESCRIPTION

MAP: 13E32B 01700

ACCOUNT NO: 00140430

SAXON LILA D
 3104 NE REGENTS DR
 PORTLAND OR 97212

Code Area: 302-018

Acres: 6.84

2007 - 2008 CURRENT TAX BY DISTRICT:

COM COLL MT HOOD	1.08
ESD MULTNOMAH	1.05
SCH CENTENNIAL	10.84
EDUCATION TOTAL:	12.97
CITY DAMASCUS	7.54
COUNTY CLACKAMAS	5.49
COUNTY PUBLIC SFTY LOC OPT	0.57
COUNTY SOIL CONS	0.11
FD59 BORING	5.43
PORT OF PTLD	0.16
SRV 2 METRO - OREGON ZOO	0.22
URBAN RENEWAL COUNTY	0.20
VECTOR CONTROL	0.01
VECTOR CONTROL LOC OPT	0.06
GENERAL GOVERNMENT TOTAL:	19.79
SCH CENTENNIAL BOND	4.34
SRV 2 METRO BOND	0.75
EXCLUDED FROM LIMIT TOTAL:	5.09
2007-2008 TAX BEFORE DISCOUNT	37.85

VALUES:	LAST YEAR	THIS YEAR
---------	-----------	-----------

REAL MARKET VALUES (RMV):		
RMV LAND	171,592	223,070
RMV TOTAL	171,592	223,070
SAV TOTAL	3,050	3,201
ASSESSED VALUE (AV):	2,223	2,284
PROPERTY TAXES:	36.61	37.85

Please Make Payment To: CLACKAMAS COUNTY TAX COLLECTOR
 (Refer to back of statement and insert enclosed for more information)
 Questions about your property value or taxes?
 Please call 503-655-8671

DELINQUENT TAXES: 0.00
TOTAL (after discount): 36.71
 Delinquent tax amount is included in payment options listed below.

(See back of statement for instructions)

TAX PAYMENT OPTIONS

Payment Options	Date Due	Discount Allowed	Net Amount Due
FULL PAYMENT	Nov 15, 2007	1.14 3% Discount.....	36.71
2/3 PAYMENT	Nov 15, 2007	0.50 2% Discount.....	24.73
1/3 PAYMENT	Nov 15, 2007	No Discount.....	12.61

↑ TEAR HERE PLEASE RETURN THIS PORTION WITH YOUR PAYMENT See back of Statement for Instructions TEAR ↑ HERE

2007-2008 Property Tax Payment Clackamas County, Oregon

ACCOUNT NO: 00140430

PROPERTY LOCATION:

Unpaid delinquent tax due is included in payment options.

FULL PAYMENT	(Includes 3% Discount)	DUE Nov 15, 2007	36.71
2/3 PAYMENT	(Includes 2% Discount)	DUE Nov 15, 2007	24.73
1/3 PAYMENT	(No Discount offered)	DUE Nov 15, 2007	12.61

DISCOUNT IS LOST AND INTEREST APPLIES AFTER DUE DATE

Mailing address change or name change on back

Enter Amount Paid

SAXON LILA D
 3104 NE REGENTS DR
 PORTLAND OR 97212

Please make payment to:
CLACKAMAS COUNTY TAX COLLECTOR
 168 Warner Milne Rd
 Oregon City, OR 97045

Exhibit E:
 Page 1 of 5

0000002473000000126100000036710014043009

0936926

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09

Oregon Property taxes for fiscal year ending June 30, 1986 1985-1986 CLACKAMAS COUNTY REAL Property Taxes	Code Area	Account Number		Assessed Value	52,410
	302-004	0936934		Ad Valorem Tax	1,278.28
	Property Description (Tax Lot Number)				
	Map Number	Parcel	Special Interest	Total Special Assessments	
	Township Range Section 1/4 1/16			Total Tax and Assessments BEFORE State Payment	1,278.28
1S 3E 32 B	01700		Less Payment by State of Oregon		
Acres Class Sub-class Pull Number			Total Amount AFTER State Payment	1,278.28	
6.84 0 400 81-28112			Discount Allowed	Pay By	Pay One of These Amounts
Tax Disc./Int. Total			FULL 3%	NOV 15	1,239.93
Check Cash Change			2/3 - 2%		835.15
			1/3 - None		426.09
			Amount Paid This Statement		

SAXON LILA D
3104 NE REGENTS DR
PORTLAND OR 97212

1984-85 1,222.89
1983-84 1,248.14
*1982-83 1,308.69

Detach Here → RETURN THIS PORTION WITH YOUR PAYMENT ← Detach Here →

Oregon Property taxes for fiscal year ending June 30, 1986 1985-1986 CLACKAMAS COUNTY REAL Property Taxes	Code Area	Account Number		TAX COMPARISON True Cash Value Last Year This Year LAND 52,410 52,410 True cash value is reduced by a percentage factor to give assessed value. Net Assessed Value 50,310 52,410 Tax Rate Each \$1000 22.30 24.39 Property Taxes 1,121.91 1,278.28	
	302-004	0936934			
	Property Description (Tax Lot Number)				
	Map Number	Parcel	Special Interest		
	Township Range Section 1/4 1/16				
1S 3E 32 B	01700				
Acres Class Sub-class Pull Number					
6.84 0 400 81-28112					
Taxpayer Other Than Owner SAXON LILA D 3104 NE REGENTS DR PORTLAND OR 97212					
Current Taxes Levied By Tax Rate Tax Amount					
FIRE DISTRICT #59 1.96 102.72					
MULT ELEM ESD .82 42.98					
MULT HIGH ESD .40 20.96					
MTHOOD COLLEGE #1 1.67 87.52					
SCHOOL DIST #302 17.00 890.97					
VECTOR CONTROL .01 .52					
METRO SERV DIST#2 .16 8.39					
PORT OF PORTLAND .37 19.39					
CLACKAMAS COUNTY 2.00 104.83					
Property Tax Totals 24.39 1,278.28					
Less Payment By State of Oregon					

0936934 Interest Included TO NOV 15

Delinquent Taxes	Tax Year	Amount
Foreclosure proceedings will be started after July 15 on real property accounts with an unpaid balance for any tax year marked with an asterisk (*).	1984-85	1,222.89
	1983-84	1,248.14
	*1982-83	1,308.69

PLEASE MAKE PAYMENT TO:	CLACKAMAS COUNTY TAX COLLECTOR 168 WARNER-MILNE ROAD OREGON CITY OR 97045	Discount Allowed	Pay By	Pay One Of These Amounts
Tax		FULL - 3% 38.35	NOV 15	1,239.93
Check		2/3 - 2% 17.04		835.15
		1/3 - None .00		426.09

WE URGE PAYMENT BY MAIL. CANCELLED CHECK AND LOWER PORTION OF STATEMENT IS YOUR RECEIPT. THANK YOU.

0936934

0936926

Oregon Property Taxes for fiscal year July 1, 1986 to June 30, 1987 1986-1987 CLACKAMAS COUNTY REAL Property Taxes	Code Area	Account Number		Assessed Value	950
	302-004	0936934		Ad Valorem Tax	22.62
	Property Description (Tax Lot Number)			Total Special Assessments	
	Map Number			Total Tax and Assessments	22.62
	Township	Range	Section 1/4 1/16	Parcel	Special Interest
	1S	3E	32 B	01700	
	Acres	Class	Sub-class	Parcel Number	
	6.84	0	600	86-10622	
Tax	Disc./Int.	Total		FULL 3%	.68
Check	Cash	Change		2/3 - 2%	.00
				1/3 - None	.00
				Discount Allowed	Pay By
					NOV 15
				Pay One of These Amounts	
					21.94
					.00
					.00
				Amount Paid This Statement	

SAXON LILA D
*OLIN CHERYL A
3104 NE REGENTS DR
PORTLAND OR 97212

1985-86 1,393.33
1984-85 1,357.50
*1983-84 1,371.92

Delatch Here	PLEASE RETURN THIS PORTION WITH YOUR PAYMENT			Delatch Here		
Oregon Property Taxes for fiscal year July 1, 1986 to June 30, 1987 1986-1987 CLACKAMAS COUNTY REAL Property Taxes	Code Area	Account Number		TAX		
	302-004	0936934		COMPARISON		
	Property Description (Tax Lot Number)			Assessed Value		
	Map Number			Last Year		
	Township	Range	Section 1/4 1/16	Parcel	Special Interest	This Year
	1S	3E	32 B	01700		
	Acres	Class	Sub-class	Parcel Number		
	6.84	0	600	86-10622		
Taxpayer	SAXON LILA D *OLIN CHERYL A 3104 NE REGENTS DR PORTLAND OR 97212			LAND	52,410	950
Other				Net Assessed Value	52,410	950
Then				Tax Rate Each \$1000	24.39	23.81
Owner				Property Taxes	1,278.28	22.62
				Current Taxes Levied By	Tax Rate	Tax Amount
				FIRE DISTRICT #59	1.97	1.87
				MULT ELEM ESD	.87	.83
				MULT HIGH ESD	.43	.41
				MTHOOD COLLEGE #1	1.74	1.65
				SCHOOL DIST #302	16.12	15.31
				VECTOR CONTROL	.01	.01
				METRO SERV DIST#2	.16	.15
				PORT OF PORTLAND	.43	.41
				CLACKAMAS COUNTY	2.08	1.98
				Property Tax Totals	23.81	22.62

0936934	Interest Included	TO NOV 15
Delinquent Taxes	Tax Year	Amount
Foreclosure proceedings will be started after July 15 on real property accounts with an unpaid balance for any tax year marked with an asterisk (*).	1985-86	1,393.33
	1984-85	1,357.50
	*1983-84	1,371.92
	Total Taxes and Assessments	

PLEASE MAKE CLACKAMAS COUNTY TAX COLLECTOR PAYMENT 168 WARNER-MILNE ROAD TO: OREGON CITY OR 97045	Discount Allowed*	Pay By	Pay One of These Amounts
	FULL - 3% .68	NOV 15	21.94
Tax	Disc./Int.	Total	
Check	Cash	Change	
			2/3 - 2% .00
			1/3 - None .00

*READ PAYMENT INSTRUCTIONS ON REVERSE
WE URGE PAYMENT BY MAIL. CANCELLED CHECK AND LOWER PORTION OF STATEMENT IS YOUR RECEIPT. THANK YOU.

0936934

E 8

Oregon Property Taxes for fiscal year July 1, 1987 to June 30, 1988 CLACKAMAS	Code Area 302004	Account Number 140430	Assessed Value Ad Valorem Tax Total Special Assessments Total Tax and Assessments Total Amount	23.62 23.62 23.62
REAL	Property Description (Tax Lot Number) Map Number Township Range Section V4 V8 R1S 3E 32 B 01700		Parcel Special Interest	
Property Taxes	Acres 6.84	Class 0	Sub-Class 600	PA# Number 86-10622
Tax	Disc./Ml	Total		FULL 3% .71 NOV 15 22.91 2/3 - 2% 1/3 - None
Check	Cash	Change		DELINQUENT TAXES Amount Paid This Statement

SAXON LILA D
*OLIN CHERYL A
3104 NE REGENTS DR
PORTLAND OR 97212

1986-87 24.65
1985-86 1546.72
*1984-85 1492.14

Detach Here Oregon Property Taxes for fiscal year July 1, 1987 to June 30, 1988 CLACKAMAS	Code Area 302004	Account Number 140430	PLEASE RETURN THIS PORTION WITH YOUR PAYMENT	Assessed Value	Last Year	Detach Here This Year	
REAL	Property Description (Tax Lot Number) Map Number Township Range Section V4 V8 R1S 3E 32 B 01700		TAX COMPARISON	LAND	950	950	
Property Taxes	Acres 6.84	Class 0		Sub-Class 600	PA# Number 86-10622	BUILDINGS	
Taxpayer	Disc./Ml	Total		EXEMPTION			
Other	Cash	Change		Net Assessed Value	950	950	
Owner	SAXON LILA D *OLIN CHERYL A 3104 NE REGENTS DR PORTLAND OR 97212			Tax Rate Each \$1000	23.81	24.87	
	HSN 0936934 FORESTLAND - POTENTIAL ADDITIONAL TAX LIABILITY			Property Taxes	22.62	23.62	
	140430 Interest included 1 15 87			Current Taxes Levied By	Tax Rate	Tax Amount	
	Delinquent Taxes			CLACK. COUNTY	2.22	2.11	
	Enclosure proceedings will be started after July '85 on real property accounts with an unpaid balance for any tax year marked with an asterisk (*).			VECTOR CNTRL	.02	.02	
	PLEASE MAKE PAYMENT TO:			PORT OF PTLD	.38	.36	
	CLACKAMAS COUNTY TAX COLLECTOR			FIRE DIST #59	1.92	1.82	
	168 WARNER-MILNE ROAD			MUL ELEM ESD	.92	.87	
	OREGON CITY, OR 97045			MUL HIGH ESD	.46	.44	
				MOUNT HOOD CC	1.77	1.68	
				SCHOOL DIST.	16.93	16.08	
				METRO SD #2	.25	.24	
				Property Tax Totals	24.87	23.62	

PLEASE MAKE PAYMENT TO:	CLACKAMAS COUNTY TAX COLLECTOR	168 WARNER-MILNE ROAD	OREGON CITY, OR 97045	Total Taxes and Assessments	23.62
Tax	Disc./Ml	Total		FULL 3% .71 NOV 15 22.91	
Check	Cash	Change		2/3 - 2% 1/3 - None	

PCC 127-126

SAVE THIS PORTION FOR YOUR RECORDS

Exhibit E:
Page 4 of 5

Oregon Property Taxes for fiscal year July 1 1988 to June 30 1989 CLACKAMAS	Code Area	Account Number		Assessed Value	970
	302004	140430		Ad Valorem Tax	27.56
	Property Description (Tax Lot Number)			Total Special Assessments	27.56
	Map Number	Parcel	Special Interest	Total Tax and Assessments	27.56
Township	Range	Section	V4	V8	Total Amount
REAL	R1S	3E	32	B	01700
Property Taxes	Acres	Class	Sub-Class	PA Number	FULL 3%
	6.84	0	600	88-22320	.83
Tax	Disct/nt	Total	Pay By		
Check	Cash	Change	NOV 15		
			DELINQUENT TAXES		Pay One of These Amounts
					26.73
			Amount Paid This Statement		

SAXON LILA D
3104 NE REGENTS DR
PORTLAND OR 97212

1987-88	25.74
1986-87	27.37
*1985-86	1700.11

Detach Here	PLEASE RETURN THIS PORTION WITH YOUR PAYMENT				Detach Here
Oregon Property Taxes for fiscal year July 1 1988 to June 30 1989 CLACKAMAS	Code Area	Account Number		Assessed Value	Last Year
	302004	140430		LAND	950
	Property Description (Tax Lot Number)			BUILDINGS	970
	Map Number	Parcel	Special Interest	EXEMPTION	
Township	Range	Section	V4	V8	Net Assessed Value
REAL	R1S	3E	32	B	950
Property Taxes	Acres	Class	Sub-Class	PA Number	Tax Rate Each \$1000
	6.84	0	600	88-22320	24.87
Tax	Disct/nt	Total	Property Taxes		
Check	Cash	Change	23.62		
			Current Taxes Levied By		Tax Rate
					Tax Amount
			CLACK. COUNTY		2.17
			VECTOR CNTRL		.01
			PORT OF PTLD		.39
			FIRE DIST #59		2.06
			MUL ELEM ESD		.96
			MUL HIGH ESD		.47
			MOUNT HOOD CC		1.83
			SCHOOL DIST.		20.13
			METRO SD #2		.34
			Property Tax Totals		28.40
					27.56

SAXON LILA D
3104 NE REGENTS DR
PORTLAND OR 97212

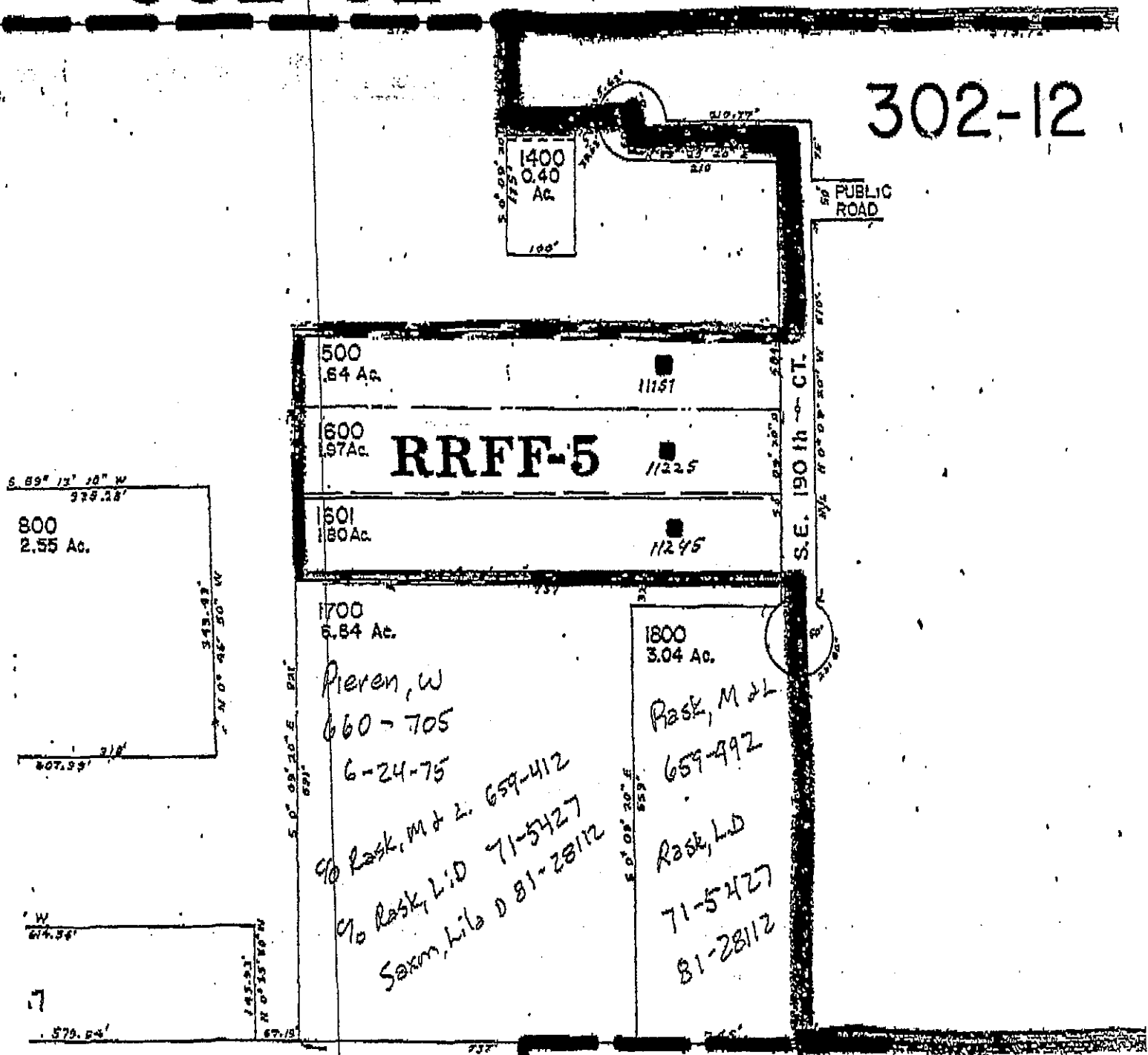
HSN 0936934
FORESTLAND - POTENTIAL
ADDITIONAL TAX LIABILITY

140430	Interest Included	11-15-88
Delinquent Taxes		
	Tax Year	Amount
	1987-88	25.74
	1986-87	27.37
	*1985-86	1700.11

PLEASE MAKE CLACKAMAS COUNTY TAX COLLECTOR PAYMENT TO: 168 WARNER-MILNE ROAD OREGON CITY, OR 97045			
Tax	Disct/nt	Total	Pay One of These Amounts
Check	Cash	Change	FULL 3%
			Discount Allowed *
			.83
			Pay By
			NOV 15
			27.56
			26.73
			2/3 - 2%
			1/3 - None

302-02

302-12



SEE MAP

3E 32C



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)
 METRO URBAN GROWTH BOUNDARY,) ORDINANCE NO. 02-969B
 THE REGIONAL FRAMEWORK PLAN AND)

 THE METRO CODE IN ORDER TO)
 INCREASE THE CAPACITY OF THE)
 BOUNDARY TO ACCOMMODATE) Introduced by the Community Planning
 POPULATION GROWTH TO THE YEAR) Committee
 2022)

WHEREAS, state law requires the Metro Council to assess the capacity of the urban growth boundary ("UGB") every five years and, if necessary, increase the region's capacity to accommodate a 20-year supply of buildable land for housing; and

WHEREAS, the Council and the Land Conservation and Development Commission agreed that the Council would undertake the assessment and any necessary action to increase the capacity of the UGB as part of the state's periodic review process; and

WHEREAS, Task 2 of the periodic review work program calls for completion of the same assessment of capacity and increase in capacity, if necessary, by December 20, 2002; and

WHEREAS, the Council determined a need for 220,700 new dwelling units to accommodate the forecast population increase of 525,000 and for 14,240 acres to accommodate the forecast employment increase of 355,000 jobs for the three-county metropolitan region by the year 2022; and

WHEREAS, the Council determined that the existing UGB has the capacity to accommodate 177,300 new dwelling units and 9,315 acres for new jobs; and

WHEREAS, policy measures to protect Industrial Areas within the existing UGB can accommodate additional new jobs; and

WHEREAS, policy measures to strengthen Regional and Town Centers as the hearts of the region's communities can accommodate an additional 6,000 units of needed housing; and

WHEREAS, expansion of the UGB in the Damascus, Gresham, Oregon City, West Linn, Wilsonville, Sherwood, Tigard, Beaverton, King City, Hillsboro, Cornelius, Bethany and Portland areas can accommodate the balance of this needed housing and land for new jobs; and

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

WHEREAS, Metro conducted five public workshops in locations around the region to provide information about alternative locations for expansion of the UGB and to receive comment about those alternatives; and

WHEREAS, Metro published, on August 25, 2002, notice of public hearings before the Council on the proposed decision in compliance with Metro Code 3.01.050; and

WHEREAS, the Metro's Community Planning Committee and the Metro Council held public hearings on the proposed decision on October 1, 3, 10, 15, 22, 24, and 29 and November 21, 2002, and considered the testimony prior to making this decision; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. Title 1, Requirements for Housing and Employment Accommodation, of the Urban Growth Management Functional Plan ("UGMFP") is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance, in order to ensure that the UGB continues to provide capacity to accommodate housing and employment growth.
2. Policy 1.16 is hereby added to the Regional Framework Plan ("RFP"), as indicated in Exhibit B, attached and incorporated into this ordinance, in order to protect residential neighborhoods pursuant to Measure 26-29, enacted by voters of the district on May 21, 2002.
3. Title 12, Protection of Residential Neighborhoods, as set forth in Exhibit C, attached and incorporated into this ordinance, is hereby adopted as part of the UGMFP in order to implement Policy 1.16 of the RFP to protect residential neighborhoods pursuant to Measure 26-29.
4. Policies 1.4.1 and 1.4.2, as indicated in Exhibit D, and the accompanying map of Regionally Significant Industrial Areas, as indicated on Exhibit E, are hereby added to the RFP, both exhibits attached and incorporated into this ordinance, in order to increase the efficiency of the use of land within the UGB for industrial use.

Exhibit H:
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5. Title 4, Industrial and Other Employment Areas, of the UGMFP is hereby amended as indicated in Exhibit F, attached and incorporated into this ordinance, in order to implement Policies 1.4.1 and 1.4.2 of the RFP to increase the efficiency of the use of land within the UGB for industrial use.
6. Policy 1.15 is hereby added to the RFP, as indicated in Exhibit G, attached and incorporated into this ordinance, in order to increase the efficiency of the use of residential land within the UGB as it existed prior to adoption of this ordinance and within areas added to the boundary by this ordinance.
7. Title 6, Regional Accessibility, of the UGMFP, is hereby re-titled as Central City, Regional Centers, Town Centers and Neighborhood Centers and amended, as set forth in Exhibit H, attached and incorporated into this ordinance, in order to implement Policy 1.15 of the RFP by strengthening the roles of centers as the hearts of the region's communities and to improve the efficiency of land use within centers.
8. Performance measures are hereby adopted, as set forth in Item 1 in Appendix A, "Performance Measures to Evaluate Efforts to Improve Land Use Efficiency", to evaluate the progress of efforts to achieve the 2040 Growth Concept and of actions taken in this ordinance to improve the efficiency of the use of land within the UGB.
9. Policy 1.9 is hereby added to the RFP, as indicated in Exhibit J, attached and incorporated into this ordinance, in order to ensure, to the extent practicable, that expansion of the UGB will enhance the roles of Regional and Town Centers in the region.
10. Chapter 3.01 of the Metro Code, Urban Growth Boundary and Urban Reserve Procedures, is hereby amended, as indicated in Exhibit K, attached and incorporated into this ordinance, in order to implement Policy 1.9 of the RFP and to clarify the authority of the Metro Council to place conditions on addition of territory to the UGB.
11. Section 3.07.1110 of Title 11, Urban Growth Boundary Amendment Urban Reserve Plan Requirements, of the UGMFP, is hereby amended as indicated in Exhibit L, attached and incorporated into this ordinance, in order to protect land added to the UGB as Regionally Significant Industrial Area from incompatible use during the planning for urbanization of the land.
12. The Metro UGB is hereby amended to include all or portions of the Study Areas, shown on Exhibit N and more precisely identified in the Alternatives Analysis Report, Item 6 in Appendix A, subject to the conditions set forth in Exhibit M, both exhibits attached and incorporated into this ordinance, in order to accommodate housing and employment that cannot be accommodated within the UGB as it existed prior to adoption of this ordinance.

Exhibit H:
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13. The Metro UGB is hereby amended to include those lands described in the Technical Amendments Report and accompanying maps, Item 7 in Appendix A, to make the UGB coterminous with nearby property lines or natural or built features in order to make the UGB function more efficiently and effectively.
14. Appendix A, attached and incorporated into this ordinance, is hereby adopted in support of the amendments to the UGB, the RFP and the Metro Code in sections 1 through 12 of this ordinance. The following documents comprise Appendix A:
 1. Performance Measures to Evaluate Efforts to Improve Land Use Efficiency
 2. Regional Employment Forecast 2000 to 2030
 3. 2002-2022 Urban Growth Report: Residential Land Need Analysis
 4. 2002-2022 Urban Growth Report: An Employment Land Need Analysis
 5. Map Atlas Memorandum and Maps
 6. 2002 Alternative Analysis Study
 7. Technical Amendments Report
 8. Housing Needs Analysis
15. The Findings of Fact and Conclusions of Law in Exhibit P, attached and incorporated into this ordinance, explain how the supporting documents described in section 14 of this ordinance demonstrate that the amendments to the UGB, the RFP and the Metro Code in sections 1 through 11 of this ordinance comply with state law and the RFP.

ADOPTED by the Metro Council this 5th day of December, 2002.

Carl Hosticka, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

Exhibit H:
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Exhibit L to Ordinance No. 02-969B

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1105 Purpose and Intent

It is the purpose of Title 11 to require and guide planning for conversion from rural to urban use of areas brought into the UGB. It is the intent of Title 11 that development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept.

3.07.1110 Interim Protection of Areas Brought into the Urban Growth Boundary

After inclusion of an area within the UGB and prior to the adoption by all local governments with jurisdiction over an area brought into the UGB of amendments to comprehensive plans and implementing land use regulations that comply with 3.07.1120, the local government shall not approve of:

- A. Any land use regulation or zoning map amendments specific to the territory allowing higher residential density than allowed by acknowledged provisions in effect prior to the adoption of the UGB amendment;
- B. Any land use regulation or zoning map amendments specific to the territory allowing commercial or industrial uses not allowed under acknowledged provisions in effect prior to the adoption of the UGB amendment;
- C. Any land division or partition that would result in the creation of any new parcel which would be less than 20 acres in total size;
- D. In an area identified by the Metro Council in the ordinance adding the area to the UGB as a Regionally Significant Industrial Area:
 - 1. A commercial use that is not accessory to industrial uses in the area; and
 - 2. A school, church or other institutional or community service use intended to serve people who do not work or reside in the area.

3.07.1120 Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory added to the Urban Growth Boundary 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:

- A. Provision for annexation 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.

see
p2-964;
and
sd here

- B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities which conform to the 2040 Growth Concept Plan design type designation for the area.
- C. 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.
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- D. 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 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.
- E. 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.
- F. 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.
- G. Identification, mapping and a funding strategy for protecting areas from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. 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 a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, or easement dedication to ensure that all significant natural resources are protected.
- H. 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.
- I. 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.
- J. An urban growth diagram for the designated planning area showing, at least, the following, when applicable:

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;
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3. General locations for mixed use areas, commercial and industrial lands;
 4. General locations for single and multi-family housing;
 5. General locations for public open space, plazas and neighborhood centers; and
 6. General locations or alternative locations for any needed school, park or fire hall sites.

K. The plan amendments shall be coordinated among the city, county, school district and other service districts.

3.07.1130 Implementation of Urban Growth Boundary Amendment Urban Reserve Plan Requirements

- A. On or before ~~60 days~~ prior to the adoption of any comprehensive plan amendment subject to this Title 11, the local government shall transmit to Metro the following:
1. A copy of the comprehensive plan amendment proposed for adoption;
 2. An evaluation of the comprehensive plan amendment for compliance with the Functional Plan and 2040 Growth Concept design types requirements and any additional conditions of approval of the urban growth boundary amendment. This evaluation shall include an explanation of how the plan implements the 2040 Growth Concept;
 3. Copies of all applicable comprehensive plan provisions and implementing ordinances as proposed to be amended.
- B. ~~The Council may grant an extension of time~~ for adoption of the required Comprehensive Plan Amendment if the local government has demonstrated substantial progress or good cause for failing to adopt the amendment on time. Requests for extensions of time may accompany the transmittal under subsection A of this section.

3.07.1140 Effective Date and Notification Requirements

The provisions of this Title 11 are effective immediately. Prior to making any amendment to any comprehensive plan or implementing ordinance for any territory that has been added to the Urban Growth Boundary after the effective date of this code amendment, a city or county shall comply with the notice requirements of section 3.07.830 and include in the required staff report an explanation of how the proposed amendment complies with the requirements of this Title 11 in addition to the other requirements of this functional plan.

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**Exhibit M to Ordinance No. 02-969B
Conditions on Addition of Land to UGB**

I. General Conditions Applicable to All Land Added to UGB

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

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

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

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

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

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

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

H. Each city and county with land use planning responsibility for a study area included in the UGB shall provide, in the conceptual transportation plan required by Title 11, subsection 3.07.1120F, for bicycle and pedestrian access to and within school sites from surrounding area designated to allow residential use.

II. Specific Conditions for Particular Areas

**Exhibit H:
Page 8 of 13**

A. Study Areas 6 (partial), 10 (partial), 11, 12, 13, 14, 15, 16, 17, 18 and 19 (partial)

1. Clackamas and Multnomah Counties and Metro shall complete Title 11 planning for the portions of these study areas in the Gresham and Damascus areas as shown on Exhibit N within four years following the effective date of this ordinance. The counties shall invite the participation of the cities of Gresham and Happy Valley and all special districts currently providing or likely to provide an urban service to territory in the area. If a portion of the area incorporates or annexes to the City of Happy Valley or the City of Gresham prior to adoption by Clackamas and Multnomah Counties of the comprehensive plan provisions and land use regulations required by Title 11, the Metro Council shall coordinate Title 11 planning activities among the counties and the new city pursuant to ORS 195.025.
2. In the planning required by Title 11, subsections A and F of section 3.07.1120, Clackamas and Multnomah Counties shall provide for annexation to the TriMet district of those portions of the study areas whose planned capacity for jobs or housing is sufficient to support transit.
3. In the planning required by Title 11, Clackamas County shall ensure, through phasing or staging urbanization of the study areas and the timing of extension of urban services to the areas, that the Town Center of Damascus, as shown on the 2040 Growth Concept Map (Exhibit N) or comprehensive plan maps amended pursuant to Title 1 of the UGMFP, section 3.07.130, becomes the commercial services center of Study Areas 10 and 11 and appropriate portions of Study Areas 12, 13, 14, 17 and 19. Appropriate portions of these study areas shall be considered intended for governance by a new City of Damascus. The Damascus Town Center shall include the majority of these areas' commercial retail services and commercial office space. Title 11 planning for these areas shall ensure that the timing of urbanization of the remainder of these areas contributes to the success of the town center.
4. In the planning required by Title 11, Clackamas and Multnomah Counties shall provide for separation between the Damascus Town Center and other town centers and neighborhoods centers designated in Title 11 planning or other measures in order to preserve the emerging and intended identities of the centers using, to the extent practicable, the natural features of the landscape features in the study areas.
5. If, prior to completion by Clackamas County of Title 11 planning for the Damascus Area, the county and Metro have determined through amendment to the 2000 Regional Transportation Plan to build the proposed Sunrise Corridor, the county shall provide for the preservation of the proposed rights-of-way for the highway as part of the conceptual transportation plan required by subsection G of section 3.07.1120 of Title 11.
6. Neither Multnomah County nor, upon annexation of the area to the City of Gresham, the city shall allow the division of a lot or parcel in an area designated RSIA to create a smaller lot or parcel except as part of the lot/parcel reconfiguration plan required in Condition 7.

Multnomah Counties of the comprehensive plan provisions and land use regulations required by Title 11, the Metro Council shall coordinate Title 11 planning activities among the counties and the new city pursuant to ORS 195.025.

2. In the application of statewide planning Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) to Title 11 planning, Clackamas and Multnomah Counties shall comply with those provisions of Title 3 of the UGMFP acknowledged by the Land Conservation and Development Commission ("LCDC") to comply with Goal 5. If LCDC has not acknowledged those provisions of Title 3 intended to comply with Goal 5 within four years following the effective date of this ordinance, Clackamas and Multnomah Counties shall consider any inventory of regionally significant Goal 5 resources adopted by resolution of the Metro Council in the county's Goal 5 process.

3. In the planning required by Title 11, subsections A and F of section 3.07.1120, Clackamas and Multnomah Counties shall provide for annexation to the TriMet district of those portions of the study areas whose planned capacity for jobs or housing is sufficient to support transit.

4. In the planning required by Title 11, Clackamas County shall ensure, through phasing or staging urbanization of the study areas and the timing of extension of urban services to the areas, that the Town Center of Damascus, as shown on the 2040 Growth Concept Map (Exhibit N) or comprehensive plan maps amended pursuant to Title 1 of the UGMFP, section 3.07.130, becomes the commercial services center of Study Areas 10 and 11 and appropriate portions of Study Areas 12, 13, 14, 17 and 19. The Damascus Town Center shall include the majority of these areas' commercial retail services and commercial office space. Title 11 planning for these areas shall ensure that the timing of urbanization of the remainder of these areas contributes to the success of the town center.

In the planning required by Title 11, Clackamas and Multnomah Counties shall provide for separation between the Damascus Town Center and other town centers and neighborhoods centers designated in Title 11 planning or other measures in order to preserve the emerging and intended identities of the centers using, to the extent practicable, the natural features of the landscape features in the study areas.

If, prior to completion by Clackamas County of Title 11 planning for the Damascus Area, the county and Metro have determined through amendment to the 2000 Regional Transportation Plan to build the proposed Sunrise Highway, the county shall provide for the preservation of the proposed rights-of-way for the highway as part of the conceptual transportation plan required by subsection G of section 3.07.1120 of Title 11. In the planning required by Title 11, subsection G of section 3.07.1120F, Clackamas County shall include measures to protect the possible corridors identified in the 2000 Regional Transportation Plan for the Sunrise Highway.

7. Neither Multnomah County nor, upon annexation of the area to the City of Gresham, the city shall allow the division of a lot or parcel in an area designated

Appropriate portions of these study areas shall be considered for governance by a new city of Damascus

7. Multnomah County or, upon annexation of the area to the City of Gresham, the city, as part of Title 11 planning, shall, in conjunction with property owners and affected local governments, develop a lot/parcel reconfiguration plan for land designated RSIA that results in the largest practicable number of parcels 50 acres or larger.

B. Study Areas 24 (partial), 25 (partial), 26 (partial) and 32 (partial)

Clackamas County or, upon annexation of the area to the City of Oregon City, the city shall complete Title 11 planning for the portions of Study Areas 24, 25, 26 and 32 shown on Exhibit N within four years following the effective date of Ordinance No. 02-969B.

C. Study Area 37

Clackamas County or, upon annexation of the area to the City of West Linn, the city shall complete Title 11 planning for Study Area 37 shown on Exhibit N.

D. Study Area 45

1. Clackamas County or, upon annexation of the area to the City of Wilsonville, the city shall complete Title 11 planning for Study Area 45 as shown on Exhibit N.
2. Clackamas County or, upon annexation of the area to the City of Wilsonville, the city shall adopt provisions in its comprehensive plan and zoning regulations to limit development on the three parcels in Study Area 45 owned by the West Linn-Wilsonville School District site to public school facilities and other development necessary and accessory to public school use, and public park facilities and uses identified in the conceptual school plan required by Title 11, subsection 3.07.1120I.

E. Study Areas 47 and 49 (partial)

1. Washington County or, upon annexation of the area to the City of Tualatin, the city shall complete Title 11 planning for the portions of Study Areas 47 and 49 shown on Exhibit N within four years following the effective date of Ordinance No. 02-969B.
2. Washington County or, upon annexation of the area to the City of Tualatin, the city, as part of the planning required for the site by section 3.07.1120E of the Metro Code, shall, in conjunction with property owners and affected local governments, develop a lot/parcel reconfiguration plan for the areas that results in the largest practicable parcel .
3. Neither the county nor the city shall allow new commercial retail uses on the portions of Study Areas 47 and 49 shown on Exhibit N.

F. Study Area 49 (partial)

Washington County or, upon annexation of the area to the City of Wilsonville, the city shall complete Title 11 planning for the portion of Study Area 49 shown on Exhibit N.

G. Study Areas 54 (partial) and 55 (partial)

1. Washington County or, upon annexation of the area to the City of Sherwood, the city shall complete Title 11 planning for the portions of Study Areas 54 and 55 shown on Exhibit N within four years following the effective date of Ordinance No. 02-969.
2. In the planning required by Title 11, subsection F of section 3.07.1120, the county or the city shall include measures to protect the possible corridor identified in the 2000 Regional Transportation Plan for the Tualatin-Sherwood Connector.

H. Study Area 59 (partial)

1. Washington County or, upon annexation of the area to the City of Sherwood, the city shall complete Title 11 planning for the portion of Study Area 59 shown on Exhibit N.
2. The county or the city shall adopt provisions in its comprehensive plan and zoning regulations to limit development in this portion of Study Area 59 to public school facilities and other development necessary and accessory to public school use.

I. Study Area 61 (partial)

Washington County or, upon annexation of the area to the City of Tualatin, the city shall complete Title 11 planning for the portions of Study Area 61 shown on Exhibit N.

J. Study Areas 62 (partial), 63 and 64

Washington County or, upon annexation of the area to the cities of Tigard, King City or Beaverton, the city shall complete Title 11 planning for the portions of Study Areas 62, 63 and 64 shown on Exhibit N.

K. Study Areas 67 and 69 (partial)

Washington County or, upon annexation of the area to the City of Beaverton or the City of Hillsboro, the city shall complete Title 11 planning for the portion of Study Areas 67 and 69 shown on Exhibit N.

L. Study Areas 71 and 0

Washington County or, upon annexation of the area to the City of Hillsboro, the city shall complete Title 11 planning for Study Areas 71 and 0 shown on Exhibit N.

M. Study Areas 77 (partial)

Washington County or, upon annexation of the area to the City of Cornelius, the city shall complete Title 11 planning for the portion of Study Area 77 shown on Exhibit N.

N. Study Area 93 (partial)

Multnomah County or, upon annexation of the area to the City of Portland, the city shall complete Title 11 planning for the portion of Study Area 93 shown on Exhibit N.

O. Study Areas 89 (partial) and 94

The City of Portland shall complete Title 11 planning for the portions of Study Areas 89 and 94 shown on Exhibit N within six years after the effective date of this ordinance. The expected number of dwelling units determined in the Title 11 planning process shall reflect the City of Portland's Residential Farm/Forest zone, including Environmental Overlay Zones.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

309 RURAL RESIDENTIAL FARM/FOREST 5-ACRE DISTRICT (RRFF-5)
(11/30/06)

309.01 PURPOSE

This section is adopted to implement the policies of the Comprehensive Plan for Rural areas.

309.02 AREA OF APPLICATION

Property may be zoned RRFF-5 when the site has a Comprehensive Plan designation of Rural; the criteria in Policy 11.2 of the Rural section of Chapter 4 of the Comprehensive Plan are satisfied; and the criteria in Section 1202 are satisfied.
(4/13/06)

309.03 PRIMARY USES

- A. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824; (4/13/06)
- B. Current employment of land for general farm uses, including:
 - 1. Raising, harvesting, and selling of crops; (4/13/06)
 - 2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees; (4/13/06)
 - 3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees; (4/13/06)
 - 4. Dairying and the selling of dairy products; (4/13/06)
 - 5. Preparation and storage of the products raised on such lands for man's use and animal use; (4/13/06)
 - 6. Distribution by marketing or otherwise of products raised on such lands; and (4/13/06)
 - 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof; (4/13/06)
- C. The propagation or harvesting of a forest product; (4/13/06)
- D. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources; (4/13/06)

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

- E. Fish and wildlife management programs; (4/13/06)
- F. Public and private parks, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit; (4/13/06)
- G. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823; (4/13/06)
- H. Utility carrier cabinets, subject to Section 830; (4/13/06)
- I. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835. (3/14/02)

309.04 ACCESSORY USES

- A. Uses and structures customarily accessory and incidental to a primary use; (4/13/06)
- B. Home occupations, including bed and breakfast homestays, subject to Section 822; (4/13/06)
- C. Produce stands, subject to the parking requirements of Section 1007; (4/13/06)
- D. Signs, subject to Section 1010; (4/13/06)
- E. Guest houses, subject to Section 833; (4/13/06)
- F. Family daycare providers. (5/22/03)

309.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR (3/14/02)

The following use may be approved by the Planning Director pursuant to Subsection 1305.02: (3/14/02)

- A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835. (3/14/02)

309.06 CONDITIONAL USES

- A. The following conditional uses may be allowed subject to review by the Hearings Officer pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800. (5/22/03)

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

1. Churches, subject to Section 804; (5/22/03)
2. Schools, subject to Section 805, except as restricted by Subsection 309.07(E); (4/13/06)
3. Daycare facilities, subject to Section 807; (5/22/03)
4. Cemeteries, subject to Section 808; (5/22/03)
5. Service and recreational uses that exceed the limits of Subsection 309.03(F), subject to Section 813; (5/22/03)
6. Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818; (5/22/03)
7. Sanitary landfills and debris fills, subject to Section 819; (5/22/03)
8. Hydroelectric facilities, subject to Section 829; (5/22/03)
9. Bed and breakfast residences and inns, subject to Section 832; (5/22/03)
10. Composting facilities, subject to Section 834; (5/22/03)
11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835; (5/22/03)
12. Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines; (5/22/03)
13. Aircraft land uses; (4/13/06)
14. Commercial recreational uses that exceed the limits of Subsection 309.03(F); (5/22/03)
15. Commercial or processing activities that are in conjunction with timber and farm uses; (11/30/06)
16. Home occupations to host events, subject to Section 806. (11/30/06)

309.07 PROHIBITED USES

- A. Uses of structures and land not specifically permitted; (4/13/06)
- B. Except as approved pursuant to Subsection 902.01(B)(4), a subdivision or

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

partition within the urban growth boundaries of Sandy, Molalla, Estacada, and Canby resulting in the creation of one or more lots or parcels of less than 5 acres in size; (4/13/06)

- C. 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; (4/13/06)
- D. Subdivisions in areas defined as Future Urban in Chapter 4 of the Comprehensive Plan; (4/13/06)
- E. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map. (4/13/06)

309.08 DIMENSIONAL STANDARDS

- A. Purpose: The dimensional standards are intended to: (4/13/06)
 - 1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the County; (4/13/06)
 - 2. Provide for fire safety and protection of all structures;
 - 3. Protect the privacy and livability of dwellings and yard areas; and
 - 4. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.
- B. Minimum Lot Size: New lots of record shall be a minimum of 5 acres in size, except as restricted by Subsections 309.07(B) through (D) or as modified by Section 902, 1013, or 1014. For the purpose of complying with the minimum lot size standard, lots that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way. (4/13/06)
- C. Minimum Front Yard Setback: 30 feet; however, there shall be no minimum front yard setback for bus shelters and roadside stands of no more than 400 square feet in area and no more than 16 feet in height. (4/13/06)
- D. Minimum Side Yard Setback: 10 feet. (4/13/06)
- E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet. (4/13/06)

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

- F. Corner Vision: No sight-obscuring structures or plantings exceeding 30 inches in height shall be located within a 20-foot radius of the lot corner nearest the intersection of two public, county, or state roads, or from the intersection of a private driveway, access drive, or private road and a public, county, or state road. Trees located within a 20-foot radius of such an intersection shall be maintained to allow 8 feet of visual clearance below the lowest-hanging branches. (4/13/06)
- G. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Map V-5 of the Comprehensive Plan should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area. (4/13/06)
- H. Exceptions: Dimensional standards are subject to modification pursuant to Section 900. (4/13/06)
- I. Variances: The requirements of Subsections 309.08(B) through (F) may be modified pursuant to Section 1205. (4/13/06)

309.09 DEVELOPMENT STANDARDS

- A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100. (4/13/06)
- B. Future Urban Areas: A partitions in an area defined as Future Urban by Chapter 4 of the Comprehensive Plan shall be approved only if the applicant demonstrates that proposed locations of improvements, including easements, dedications, structures, wells, and on-site sewage disposal systems are consistent with the orderly development of the property at appropriate urban densities on the basis of the criteria in Subsection 301.02. (4/13/06)
- C. Manufactured Dwelling Parks: Existing manufactured dwelling parks shall not be redeveloped with a different use until a plan for relocation of the existing tenants is submitted and approved by the Planning Director. (4/13/06)

**Declaration by Thomas J. Williams,
Williams Associates Real Estate Appraisers, Inc.**

I am Thomas J. Williams, principle in Williams Associates Real Estate Appraisers, Inc.. I have been a real estate appraiser in the greater Portland and Vancouver metropolitan area including: Multnomah, Washington, Clackamas, Columbia, Yamhill, and Clark counties for the last seventeen years.

I have extensive experience in the valuation of both existing and proposed residential properties especially those suitable for redevelopment.

The purpose of this report is to communicate the data and reasoning used by the appraiser to form an opinion of market value. The property rights appraised are the fee simple interest in the site and improvements. The work file contains the description, analysis and supportive data for the conclusions, final opinion of value, descriptive photographs, limited conditions and appropriate certifications.

On November 29, 2007, I visited the Lila Saxon property at the south cul-de-sac of S.E. 190th Court near the intersection with S.E. White Crest Court in Damascus, Oregon. The Clackamas County Reference Parcel Number is 13E32B 01700.

The Saxon property of 6.84 acres exhibits moderately steep topography with impressive panoramic views to the southwest.

I have reviewed the site, plat and topographical maps of the subject property as well as the adjacent neighborhood. The highest and best use of the property lends itself to single family residential use. In the appraisal process, the data from the market area has been reviewed, trends in the area sales and asking prices of the comparable properties. Consideration is given to the development of the site including, but not limited to, installation of foundations, driveways, utilities, removal of trees, grading, and etc.

The following value conclusions are effective as of November 28, 2006.

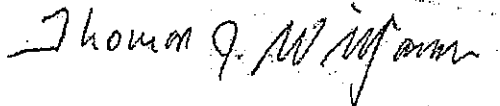
Should the property be subdivided with four sites with an average of 1.71 acres each, the value of the property would be not less than \$800,000 or \$200,000 per site.

If the property is partitioned into two sites, one of 5.0 acres and the other of 1.84 acres the value of the 5.0 parcel would be not less than \$360,000 and the value of the 1.84 acre parcel would be not less than \$270,000 for a total of \$630,000.

If the 6.84 acre site could not be subdivided then the value of the property would not be less than \$360,000 or more than \$390,000.

I declare that the above statement is true to the best of my knowledge and belief; and I understand that it is made for use as evidence in court and is therefore subject to penalty for perjury.

Dated this 30th Day of November 2007



Thomas J. Williams

Certified Residential Appraiser, CR00175

MAY 02 2007

[Handwritten signature]

CITY OF DAMASCUS

RESOLUTION NO. 07-127

A RESOLUTION OF THE DAMASCUS CITY COUNCIL IN THE MATTER OF THE CLAIM OF LILA D. SAXON PURSUANT TO BALLOT MEASURE 37 (2004).

A. Pursuant to Ballot Measure 37, Lila D. Saxon ("Claimant") filed Claim ZC172-06 (attached as Exhibit A) on August 31, 2006, regarding property located in Clackamas County (the "Property"), described as:

TIS-R3E-Section 32B-Tax Lot 1700.

B. Pursuant to City Procedures to Implement Measure 37, the claim was investigated by staff and a report dated January 26, 2007 was submitted regarding the claim. The Staff Report is attached hereto as Exhibit B and incorporated herein by reference.

C. Pursuant to City procedures, a hearing was held on the Exhibit A claim on February 5, 2007, for which appropriate notice was provided.

WHEREFORE, the City Council finds and resolves:

1. That the Property described in the Exhibit A claim is owned by the Claimant. Claimant acquired an interest in the property on June 8, 1965 and has had a continuous ownership interest since that date (from March 25, 1968 until April 18, 1988, the Claimant's ownership interest was limited to that of a contract seller).

2. That subsequent to Claimant's acquisition of the Property, land use regulations have been imposed on the Property, which, pursuant to Ballot Measure 37, may have reduced the value of the Property.

3. That compensation may be owed under Ballot Measure 37 as a result of land use regulations adopted and enforced on the Property since Claimant's acquisition, but that the City Council finds it to be in the best interest of the City not to apply such regulations in lieu of compensation.

4. That compensation shall not be paid on the claim, but in lieu thereof, the City shall not apply those land use regulations that restricted the use of, and caused devaluation of the Property, and that were imposed on the Property by the City after the date of acquisition of the Claimant described in Paragraph 1, as provided in the attached Staff Report, Exhibit B.

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

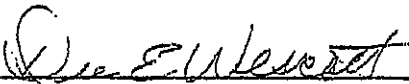
Exhibit K:
Page 1 of 2

6. This Resolution and Order shall be effective in duration and in availability to the Claimant to the extent, but only to the extent, necessary to avoid the obligation to pay compensation under Measure 37. If, based on a future Oregon appellate court interpretation or invalidation of Measure 37 in this or another case, as to which there is no further right of appeal, the Claimant is not entitled to compensation as a result of land use regulations adopted and enforced on the Property since the Claimant's acquisition thereof, then this Resolution and Order shall be deemed to have been invalid and ineffective as of and after the date of this Order. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the City being required to compensate the Claimant under Measure 37.

7. That the City adopts the Exhibit B Staff Report in support of this Resolution and Order.

ADOPTED this 2 day of February, 2007.

CITY OF DAMASCUS



Dee Wescott, Mayor

Attest: 

Millicent/Morrison, City Clerk

**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 49
AND METRO CODE CHAPTER 2.21**

REPORT OF THE METRO CHIEF OPERATING OFFICER

In Consideration of Council Order No 08-046

For the purpose of entering an order relating to the Velma Pauline Povey, Lila & Kenneth Saxon and Tigard Sand & Gravel, LLC claims for compensation under Section 9 of Chapter 424 Oregon laws 2007 (Measure 49) and Metro Code Chapter 2.21

June 16, 2008

METRO CLAIM NUMBER: Claim No. 08-046

NAME OF CLAIMANT: Velma Pauline Povey

MAILING ADDRESS: c/o William C. Cox, Attorney at Law
0244 SW California St.
Portland, OR 97219

PROPERTY LOCATION: Damascus, OR 97089

LEGAL DESCRIPTION: Township 2S, Range 3E, Section 2
Tax Lots 1410 and 1412

DATE OF CLAIM: May 8, 2008

I. CLAIM

Claimant Velma Pauline Povey seeks compensation in the amount of \$1,204,000 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 7.77-acre subject property into eight (one-acre) single-family residential lots.

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on June 16, 2008. 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.oregonmetro.gov/measure49.

II SUMMARY OF COO RECOMMENDATION

The claim does not meet the basic requirements of Measure 49. The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report.

III TIMELINESS OF CLAIM

Findings of Fact

Measure 49, section 10(3) requires that if a claimant has made a Measure 37 claim against Metro before June 28, 2007, but Metro did not make a final decision on the Measure 37 claim before the effective date

of Measure 49, Metro shall send notice to the claimant within 90 days after the effective date of Measure 49, notifying the claimant of their right to seek relief under Measure 49.

The Claimant submitted a Measure 37 claim on November 29, 2006. The claim identified Metro Code section 3.07.1110 C as the basis of the claim. Claimant's Measure 37 claim was made before June 28, 2007.

Metro had not made a final decision on Claimant's Measure 37 claim by December 6, 2007, the effective date of Measure 49.

Metro sent notice to Claimant on February 14, 2008, notifying Claimant of her rights under Measure 49. That notice was timely as it was sent within 90 days of December 6, 2007, the effective date of Measure 49.

Notified claimants have 120 days after the date of that notice to inform Metro, in writing, of their intention to continue the claim and to file the information required under Measure 49. That required information includes, but is not limited to, an appraisal, prepared as described in Sections 9(6) and 9(7) of Measure 49.

On May 8, 2008, Claimant filed an amended claim against Metro under Measure 49. That claim was timely as it was filed within 120 days of the February 14, 2008 notice from Metro.

Metro staff conducted a preliminary completeness review of Claimant's Measure 49 claim and sent a letter of tentative determination to Claimant on May 12, 2008 (ATTACHMENT 2). In that letter, Staff determined that Claimant's claim was incomplete because it lacked an appraisal as required by Measure 49 and Metro Code 2.21.030(c)(6) and that the claimant was not entitled to relief under Section 9 of Measure 49.

Claimant sent a letter of response on May 27, 2008 (ATTACHMENT 3). Claimant did not, however, provide an appraisal as required by Measure 49. As of the date of this report, the claim is incomplete as it lacks an appraisal.

Conclusions of Law

The claim does not meet this criterion. By the established deadline for a complete claim, Claimant's claim against Metro was incomplete and, thus, not timely.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code Section 2.21.030(b)(1) states that for a claim to be valid, the claimant must be an owner of the property.

Findings of Fact

Metro Code section 2.22.020(d) defines "owner" to mean:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Claimant acquired an ownership interest in the 7.77-acre subject property through a Contract recorded on September 26, 1972 and has had a continuous ownership interest since that time. The property consists of two tax lots, one of which is 2.65 acres and the other of which is 5.12 acres. Attachment 1 is a site map of the subject property (ATTACHMENT 1). There is a house on the 2.65-acre tax lot. The 5.12-acre tax lot has no improvements.

Conclusions of Law

The claim meets this criterion. The Claimant, Velma Pauline Povey, Trustee of the Povey Trust, is the sole owner of the subject property as defined in the Metro Code.

2. Consent of All Owners

Metro Code Section 2.21.030(b)(2) states that for a claim to be valid, all owners must consent in writing to the filing of the claim.

Findings of Fact

Claimant Velma Povey is the sole owner of the property and has consented in writing to the filing of the claim.

Conclusions of Law

The claim meets this criterion. All owners of the property have consented in writing to the filing of the claim.

3. Location of property within Metro UGB

Metro Code Section 2.21.030(3) ("Filing an Amended Claim") states that in order to qualify for compensation or waiver by Metro, a property must be wholly or partially located within Metro's UGB.

Findings of Fact

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

Conclusions of Law

The claim meets this criterion. The subject property is wholly within the Metro UGB.

4. Allowed number of single-family dwellings

Metro Code Section 2.21.030(4) states that for a claim to be valid, the claimant, on the claimant's property acquisition date, lawfully must have been permitted to establish at least the number of dwellings on the property that are authorized under Ballot Measure 49. Section 9(2) of Measure 49 states that the number of single-family dwellings that may be established may not exceed the lesser of:

- (a) The number of single-family dwellings described in a waiver issued by Metro, a city or a county before the effective date of Measure 49 (December 6, 2007) or, if a waiver was not issued, the number described in the claim filed with Metro, a city or a county;
- (b) 10, except that if there are existing dwellings on the property, the number of single-family dwellings that may be established is reduced so that the maximum number of dwellings, including existing dwellings located on the property, does not exceed 10; or
- (c) The number of single-family dwellings the total value of which represents just compensation for the reduction in fair market value caused by the enactment or one or more land use regulations that were the basis for the claim

Findings of Fact

Claimant asserts that the zoning of the subject property at the time of Claimant's acquisition allowed for one-acre lots and requests the ability to divide the 7.77-acre property into 8 lots. Subsequent to the Claimant's acquisition of the property and before its inclusion in the Metro UGB, the property was rezoned by Clackamas County as RRFF-5, with a 5-acre minimum lot size.

Metro has not issued a waiver to the Claimant of the 20-acre minimum lot size requirement found in Section 3.07.1110 C of the Metro Code. On April 16, 2007, the City of Damascus issued a waiver of the RRFF-5 zoning.

One single-family dwelling is presently on the 2.65-acre tax lot.

Claimant has not provided an appraisal as required under Metro Code Section 2.21.030(c)(6) and Measure 49 Section 9(6) and 9(7).

Conclusions of Law

The claim does not adequately address this criterion. As described in Section 9(2) of Measure 49, the maximum number of allowable single-family dwellings is the lesser of choices a, b, and c (detailed above). In order to make that determination, there must be a quantification of diminished value (if any) that is attributable to the cited Metro regulation. Because Claimant has not provided an appraisal as required by Metro Code and Measure 49, Claimant has not provided adequate information to establish a right under Measure 49 to divide the property into 8 single-family lots. Additionally, the establishment of 8 lots on the 7.77-acre property would result in the creation of at least one lot of less than one acre, which would not have been allowed at the time of claimant's acquisition.

5. Residential use

Metro Code Section 2.21.030(5) states that a claimant must establish that the property is zoned for residential use.

Findings of Fact

The subject property is zoned RRFF-5 (rural residential farm forest, 5-acre minimum).

Conclusions of Law

The claim meets this criterion. The subject property is zoned for residential use.

6. Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that a claimant must establish that one or more land use regulations prohibit the establishment of the single-family dwellings.

Findings of Fact

The above reference to "the single-family dwellings" refers to the number of dwellings that would be allowable under Measure 49. As previously noted, Claimant has not provided an appraisal as required by Measure 49 that demonstrates a loss of value. Consequently, Claimant has not provided adequate information to determine the maximum number of dwellings that would be allowable under Section 9(2) of Measure 49. Because Claimant has not submitted an appraisal, it is not possible to determine whether

Metro Code Section 3.07.1110 C (Interim Protection of Areas Brought into the Urban Growth Boundary) prohibits the number of dwellings to which Claimant would be entitled under section 9(2)(c) of Measure 49. This code section establishes a temporary 20-acre minimum lot size until the effective date of amendments to comprehensive plans and implementing land use regulations comply with Metro Code

Section 3.07.1120 (Planning for Territory Added to the UGB). It does not prohibit single-family dwellings; it would allow a single-family dwelling on the parcel of the Claimant's ownership that does not now have a dwelling. But an appraisal is a pre-requisite to a determination whether Claimant is eligible for the additional dwelling under section 9(2)(c). At the time that that Metro Code Section 3.07.1110C went into effect, the property was zoned RRFF-5 with a 5-acre minimum lot size, which already precluded any further division of the property as doing so would have resulted in lots of less than 5 acres. Consequently, Metro's temporary 20-acre minimum lot size requirement did not have the effect of further restricting the subject property's use for residential purposes.

Conclusions of Law

The claim does not meet this criterion. Metro Code Section 3.07.1110C does not prohibit the establishment of single-family dwellings. Furthermore, Claimant, in failing to provide an appraisal, has not provided adequate basis to support their asserted right to divide the property into 8 single-family residential lots.

7. Exemptions under ORS 197.352(3)

Metro Code Section 2.21.030(b)(7) states that land use regulations as described in ORS 197.352(3) that prohibit the establishment of a single-family dwelling are exempt under Measure 49.

Findings of Fact

ORS 197.352(3) states that a claim cannot be made under Measure 49 for land use regulations that:

- (a) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) Restrict or prohibit activities for the protection of public health and safety;
- (c) Are required to comply with federal law; or
- (d) Restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing.

Conclusions of Law

The claim meets this criterion. Section 3.07.1110 C of the Metro Code is not exempt from Measure 49 under ORS 197.352(3).

8. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in the UGB

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the UGB.

Findings of Fact

Section 2(3) of Measure 49 defines "enacted" as enacted, adopted, or amended.

On December 5, 2002, the Metro Council expanded the UGB by adopting Ordinance No. 02-969B (effective March 5, 2003), thereby including the Claimant's property in the UGB expansion area. That same ordinance simultaneously made Metro Code Section 3.07.1110C, the land use regulation cited by Claimant, applicable to Claimant's property.

Conclusions of Law

The claim does not meet this criterion. Section 3.07.1110 C of the Metro Code was applied to the subject property simultaneously with the property's inclusion in the UGB (by the same ordinance). The regulation was not enacted after the date that that the property was brought into the UGB.

9. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in Metro's Jurisdictional Boundary

Metro Code Section 2.21.030(b)(9) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro.

Findings of Fact

The entire subject property has been inside Metro's jurisdictional boundary since the January 1, 1979 establishment of the boundary. Metro Code Section 3.07.1110C was applied to the property on March 5, 2003.

Conclusions of Law

The claim meets this criterion. Metro Code Section 3.07.1110C was applied to the property after its inclusion in Metro's jurisdictional boundary.

10. Effect of the Land Use Regulation on Fair Market Value

Section 2.21.030(b)(10) of the Metro Code states that for a claim to be valid, the enactment of a land use regulation must have caused a reduction in the fair market value of the property. In order to demonstrate a reduction in value, Metro Code Section 2.21.030(c)(6) states that the Claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. Sections 9(6) and 9(7) of Measure 49 provide further details regarding how diminished value is to be determined.

Findings of Fact

Claimant has not provided an appraisal or any sales data to substantiate the asserted \$1,204,000 claim. Claimant has also not distinguished between any possible effects on value that are the result of Metro's actions versus the County's zoning of the property as RRFF-5. Claimant states in a May 8, 2008, letter to Metro that they have been unable to find an appraiser who is willing to conduct an appraisal according to the standards set forth in Sections 9(6) and 9(7) of Measure 49.

Metro's temporary 20-acre minimum lot size requirement does not further restrict claimant's ability to subdivide the property beyond the property's zoning restrictions in place at the time of Metro's action (5-acre minimum lot size). Given the 7.77-acre size of the property (one lot at 2.65 acres and one lot at 5.12 acres), no further subdivision would be allowed under either the pre-existing RRFF-5 zoning or under Metro's temporary 20-acre minimum lot size as any subdivision would necessarily result in at least one lot of less than five acres. Consequently, it appears unlikely that any reduction in value could be attributed to Metro Code Section 3.07.1110C.

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that Metro Code Section 3.07.1110C had the effect of reducing the fair market value of the subject property.

11. Highest and Best Use

Metro Code Section 2.21.030(b)(11) states that for a claim to be valid, at the time the land use regulation was enacted, the highest and best use of the property must have been residential use. Section 9(7)(c) of Measure 49 states that the appraisal to be provided by the Claimant must expressly determine the highest and best use of the property at the time that the land use regulation was enacted.

Findings of Fact

Claimant did not provide an appraisal, which would have established the property's highest and best use at the time that Metro Code Section 3.07.1110C was applied to the property. Consequently, Claimant has provided no evidence that the highest and best use of the property is residential use.

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that, at the time that the regulation was applied to the property, the highest and best use was residential.

12. Relief for Claimant

Findings of Fact

Waiver of Metro Code Section 3.07.1110 C 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 would be to reduce the residential capacity of the City of Damascus and of the UGB. It would also make provision of urban services less efficient and more complicated. Finally, it would undermine the planning now underway by the City of Damascus to create a complete and livable community.

Conclusions of Law

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

Recommendation of the Chief Operating Officer

The Metro Council should deny the Povey claim for the following reasons:

At the stated deadline, the Claimant had not provided an appraisal. The claim is incomplete and the deadline for a complete claim has passed. Therefore, the claim is not timely.

Metro Code Section 3.07.1110C (Interim Protection of Areas Brought into the Urban Growth Boundary) does not prohibit single-family residential uses.

The cited regulation does not have the effect of further limiting the Claimant's use of the property beyond what was allowable under the RRFF-5 zoning in place at the time that the Metro regulation was applied. Under the RRFF-5 zoning, no further divisions were allowable.

The cited regulations were enacted against the property simultaneously (same ordinance) with the property's inclusion in the UGB, not after its inclusion.

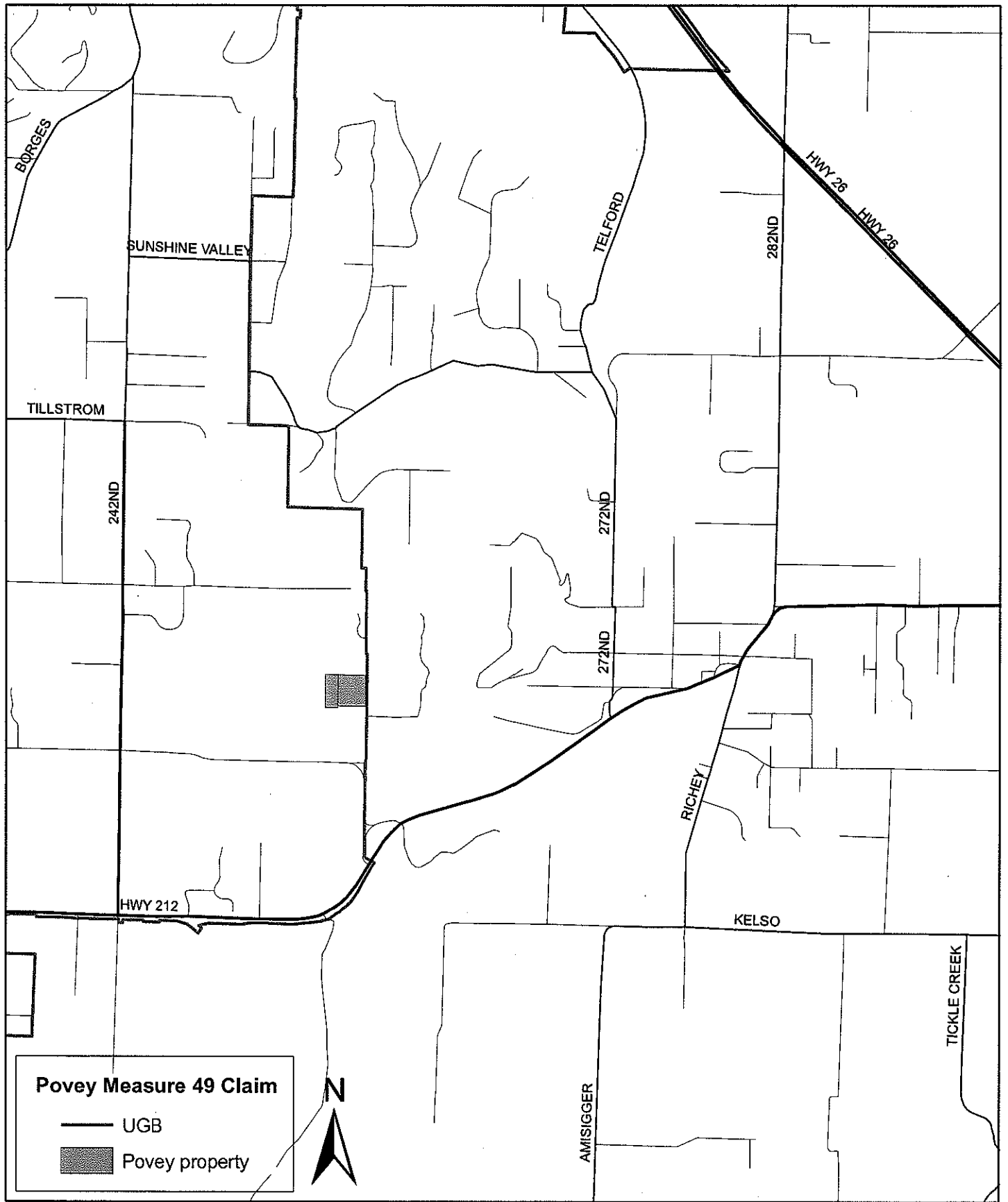
Claimant has failed to provide an appraisal that establishes residential use as the property's highest and best use.

Claimant has failed to provide an appraisal that demonstrates that Metro Code Section 3.07.1110 C and Metro Council's Ordinance No. 02-969B had the effect of reducing the value of the subject property.

ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

- Attachment 1: Site Map of the Velma Pauline Povey property
- Attachment 2: May 12, 2008 letter of tentative determination from Metro to Claimant
- Attachment 3: May 27, 2008 Claimant response to Metro's tentative determination
- Attachment 4: Velma Pauline Povey Measure 49 claim

Attachment 1: Site map of the Velma Pauline Povey Property



June 13, 2008

0 1,250 2,500 5,000 Feet



METRO

May 12, 2008

William C. Cox, Attorney at Law
0244 SW California St.
Portland, OR 97219

RE: Velma Povey Measure 49 claim with Metro
Property Location: Damascus, OR
Legal Description: Township 2S, Range 3E, Section 2, Tax Lots 1410 and 1412

Dear Mr. Cox:

We are in receipt of your client, Velma Povey's, Measure 49 claim against Metro. Pursuant to Section 10(4) of Measure 49, we have conducted a tentative review of the claim and have determined that the claimant does not qualify for relief under Section 9 of Measure 49. Pursuant to Section 10(4) of Measure 49, your client has fifteen (15) days from the date of this notice to submit additional evidence to support the claim, after which date the Metro Council will make a final determination on the claim.

Metro's tentative review of the claim identified the following deficiencies:

Measure 49 Section 9(5)(h)

The cited land use regulation must have been enacted after the date the property, or any portion of the property, was brought into the urban growth boundary. The claim identifies Metro Code Section 3.07.1110 C (Interim Protection of Areas Brought into the Urban Growth Boundary) as the basis of the claim. The Metro Council applied this regulation to the claimant's property on December 5, 2002 (effective March 5, 2003), by Ordinance No. 02-969B, the same ordinance that brought the subject property into the urban growth boundary.

The claim does not meet the requirement that the regulation be enacted after the property was brought into the urban growth boundary.

Measure 49 Sections 9(5)(k), Section 9(6) and Section 9(7)

A claimant must provide an appraisal, performed according to the standards set forth in Measure 49 Sections 9(6) and 9(7) and section 2.21.050(b)(6), that demonstrates a decrease in fair market value attributable to the cited regulation.

The claimant has not provided an appraisal. Therefore, the claim does not meet this requirement.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'TR', written in a cursive style.

Ted Reid
Long Range Policy and Planning
(503) 797-1768

cc: City of Damascus
Department of Land Conservation and Development

William C. Cox attorney at law

Land Use, Real Estate and Development Consultation

*Gary E. Shepherd
Of Counsel
(503) 233-1985*

May 27, 2008

Metro Council
c/o Ted Reid
Long Range Policy and Planning
600 NE Grand Ave.
Portland, Oregon 97232

RE: Measure 49 Claim
Velma Pauline Povey Claimant
T2S, R3E, S2, TL 1410-1412
Damascus, Oregon
Your Letter 5-12-08

Dear Mr. Reid,

In response to your above identified letter of May 12, 2008 the claimant asserts:

Measure 49 Section 9(5)(h)

Metro's position that the moratorium/regulation imposed on the subject property by Ordinance 02-969B preceded the adoption of the UGB modification is without legal merit. A regulation or moratorium can not, as a matter of law, take effect until the property that regulation or moratorium regulates has been brought into the UGB. The subject property had to have been brought into the UGB before the Code provision which regulates it would have any effect. If it were the other way around the subject land would not have had an urban designation upon which the regulation could be imposed.

Measure 49 Sections 9(5)(k), Section 9(6) and Section 9(7)

The standards imposed by the above referenced sections are void and without legal authority since they are arbitrary and capricious and do not further the stated purpose of the statute (Measure 49).

Measure 49, Section 3 (2) states:

"The purpose of sections 5 to 22 of this 2007 act and the amendments to Ballot Measure 37 (2004) is to modify Ballot Measure 37 (2004) to ensure that Oregon law provides just compensation for unfair burdens while retaining Oregon's protections for farm and forest uses and the state's water resources."

Measure 49, Section 4(2), states:

"Just compensation under sections 12 and 14 of this 2007 act shall be based on the reduction in the fair market value of the property resulting from the land use regulation" Emphasis Added

The key word in that provision is 'property'. However, Section 9(5)(k) makes it impossible to establish a loss for which just compensation will be paid. Section 9(5)(k) requires that an appraisal be undertaken pursuant to terms which effectively render the stated purpose of Measure 49 to pay just compensation unattainable. That provision mandates that the value of a vacant parcel of property be compared to the value of that property improved with a single-family dwelling thereon. As it states in pertinent part:

"...that the basis for the claim caused a reduction in the fair market value of the property, as determined under section 6 of this section, that is equal to or greater than the fair market value of the single family dwellings that may be established on the property under subsection 2 of this section. Emphasis Added

The definition of property found in Section 2 (17) makes no reference to single family dwellings, nor are single family dwellings defined in Measure 49.

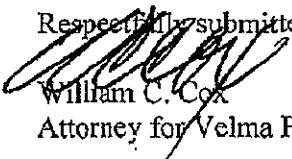
Furthermore Section 9 (7)(a) and (b) require that the appraisal be "prepared by a person certified under ORS Chapter 674 ... or...ORS Chapter 308 and "comply with the Uniform Standards of Professional Appraisal Practice as authorized by the Financial Institutions Reform, Recovery and Enforcement Act of 1989".

The claimant has been unable to locate anyone that meets the express and implied standards set forth in Section 9 (7) (a) and (b) because there is no ethical manner that an appraiser could accept the challenge of Section 9 (5) with any expectation that the claimant can ever show a reduction in fair market value of vacant property when it is compared to improved property containing a single family dwelling.

The terms of Section 7, Measure 49 are inequitable, arbitrary and capricious and fail to implement the stated purpose of the Measure.

To deny claimant's claim based upon such a standard is in violation of the rights set forth in the 5th and 14th amendments to the US Constitution and Article I, Section 18 of the Oregon Constitution. Claimant's property value has been taken without just compensation.

Respectfully submitted,


William C. Cox
Attorney for Velma Povey

William C. Cox attorney at law

Land Use, Real Estate and Development Consultation

*Gary P. Shepherd
Of Counsel
(503) 233-1985*

RECEIVED

MAY 08 2008

May 7, 2008

Supplemental Measure 49 Claim Review
Department of Land Conservation and Development
635 Capital Street NE, Suite 150
Salem, OR 97301-2540

OFFICE OF METRO ATTORNEY

Metro
600 NE Grand Ave.
Portland, Oregon 97232

City of Damascus
19920 SE Highway 212
Damascus, OR 97015

RE: Velma Pauline Povey, Trustee, Velma Pauline Povey Trust - Claimant
STATE CLAIM NO. M131749
CITY OF DAMASCUS CLAIM NO. ZC577-06
METRO CLAIM NO. 07-020

Dear Administrators:

This office represents Velma Pauline Povey, Trustee, Velma Pauline Povey Trust (claimant). Attached you will find her Measure 49 Election Form and supplemental information. By reference, we hereby incorporate into this Measure 49 claim process, as if set forth in full, claimant's entire Measure 37 claim file in STATE CLAIM NO. M131749, CITY OF DAMASCUS CLAIM NO. ZC577-06, and METRO CLAIM NO. 07-020.

The subject property, Tax Map/Lot T2SR3E, Section 2A, Lots 1410 (5.12 acres) and 1412 (2.65 acres), is within the City of Damascus city limits and the UGB, however, to date the property has not been rezoned by the County and the City has no adopted Comprehensive Plan, thereby prohibiting division and residential development. A house currently exists on lot 1412 and lot 1410 is vacant.

Claimant elects to amend her Measure 37 claim. Claimant seeks relief pursuant to Measure 49, Sections 9 and 10. Claimant seeks the right to permit, without limitation, the creation, division, development, and/or subsequent sale of 8 (one acre) legal lots of record that can support a single family dwelling on each lot.

Claimant acquired the property on September 15, 1972 and has had continuous ownership since that date. These facts are confirmed by public records submitted with claimant's Measure 37 claims. When the property was acquired, it was zoned RA-1 and has since been rezoned RRFF-5, thereby prohibiting and/or restricting division, development, and residential uses that were permitted on September 15, 1972. Furthermore, Metro code (Title 11, Section 3.07, adopted by Ordinance 98-772B and Metro Ordinance 02-969B) prohibit the creation of lots less than 20 acres in size in the RRFF-5 zone. When zoned RA-1, land division would have been subject to a minimum lot size standard of one acre and single family dwellings were a primary and outright permitted use.

M37 proceedings and a final order issued by the City of Damascus confirmed that the inability to divide the property to create additional building lots resulted in a loss in fair market property value. The City of Damascus final order concluded: "The current RRFF-5 zoning has resulted in a reduction in land value as compared to the zoning in effect when the claimant acquired the property."

At this time, claimant has been frustrated in her ability to supply an appraisal to support the City's value reduction findings pursuant to Measure 49, Section 9. Claimant's attorney, William C. Cox, contacted both the State DLCD and Metro to clarify the standards and determine how an appraisal consistent with the requirements of Measure 49 is to be done. Neither the State nor Metro was able to provide needed clarification or direction as to how to complete the appraisal. To date, claimant has been unable to retain a certified appraiser who is willing to perform and provide an appraisal given the uncertainty with Measure 49 appraisal requirements and standards, and the liability that attaches with such uncertainty.

Claimant requests and reserves the right to submit additional information related to this Measure 49 claim proceeding.

The record already includes a power of attorney form authorizing William C. Cox, Attorney to sign documents and provide information related to this claim proceeding. If you have any questions, please promptly call.

Sincerely,



William C. Cox

CC: client
Enclosures
Sent certified mail/return receipt

Metro Measure 49 Claim Form

Claimants are also required to submit the items listed on the back of this form

CLAIM NO. 07-020

Claimant name: VELMA POVEY, TRUSTEE

Claimant mailing address: VELMA PAULINE POVEY TRUST

25529 SE HOFFMEISTER RD.

DAMASCUS, OR 97089 *

Claimant phone number: * PLEASE CONTACT ATTORNEY - WILLIAM C. COX
(503) 246-5499

- 1) Are you an owner of the property? YES
- 2) Are there other owners of the property? No
- 3) If there are other owners, do they all consent to the filing of this claim? N/A
Please have all owners sign the attached consent form.
- 4) On what date did you acquire the property? 9/15/72
- 5) Have you had continuous ownership of the property since you acquired it? YES
- 6) Is the property located, in whole or in part, inside the Metro urban growth boundary?
YES
- 7) On the date of your acquisition of the property, how many dwelling units were you lawfully permitted to establish on the property? 8
- 8) Is the property currently zoned for residential use? No
- 9) Does a Metro land use regulation prohibit the establishment of a single-family dwelling on the property? YES
- 10) Is there currently a dwelling unit on the property? YES
If so, how many dwelling units are there? 1
- 11) Have you provided Metro with all of the additional items listed on the back of this form?
YES - INFORMATION IS ATTACHED AND/OR INCLUDED BY REFERENCE AND/OR INCORPORATION

In addition to completing the Metro Measure 49 Claim Form, Measure 49 and Metro Code section 2.21 require that you submit the following:

- 1) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot number(s) of the property, and the date on which the owner acquired the property interest. *MEASURE 37 LOT BOOK REPORT PROVIDED W/ M37 CLAIM AND INCORPORATED BY REFERENCE.*
- 2) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim; *POWER OF ATTORNEY FORM INCLUDED W/ M37 CLAIM AND INCORPORATED BY REFERENCE.*
- 3) A reference to any and all specific, existing Metro land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property. *SEE MEASURE 37 CLAIM INCORPORATED BY REFERENCE. SEE ATTACHMENTS.*
- 4) A copy of the city or county land use regulations that applied to the property at the time the challenged Metro land use regulations became applicable to, or were enforced against, the property. *SEE MEASURE 37 CLAIM INCORPORATED BY REFERENCE. SEE ATTACHMENTS.*
- 5) An appraisal showing the fair market value of the property one year before the enactment of the Metro land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. An "appraisal" means a written statement prepared by a person certified under ORS chapter 308 that complies with the Uniform Standards of Professional Appraisal Practice, as authorized by the Financial Institution Reform, Recovery and Enforcement Act of 1989. If the claim is based on the enactment of more than one Metro land use regulation enacted on different dates, the reduction in the fair market value of the property caused by each regulation shall be determined separately and the values added together to calculate the total reduction in fair market value. *SEE ATTACHMENTS, MEASURE 37 CLAIMS + FINAL ORDERS INCORPORATED BY REFERENCE*
- 6) A description of the claimant's proposed use of the property if the Metro Council chooses to waive the land use regulation instead of paying compensation. *SEE ATTACHMENTS.*
- 7) If the property is or has been enrolled in one or more of the special assessment programs listed below, information regarding taxes not paid as a result of the program or programs:

Any ad valorem property taxes not paid as a result of any special assessment of the property under ORS 308A.050 to 308A.128, 321.257 to 321.390, 321.754 or 321.805 to 321.855 *N/A*

- 8) A statement whether the claimant filed a claim with other public entities on or before June 28, 2007, involving the same property and a copy of any decision made by the entity on the claim. *SEE ATTACHMENTS*



Department of Land Conservation and Development
 635 Capitol Street NE, Ste. 150
 Salem, Oregon 97301-2540
 (503) 373-0050
 www.oregon.gov/LCD

Attachment 4: Velma Pauline Povey Measure 49 Claim

Measure 49 Election Form

CLAIM NUMBER
M131749

Mail form and attachments to:
 Supplemental Measure 49 Claim Review
 at the above address.

DO NOT LOSE THIS FORM – This form is not available on the Internet.

I. NAMES OF ALL CLAIMANTS – List each claimant separately. Attach additional sheet if more than three claimants.

1	Claimant Name (individual or business) and Mailing Address VELMA PAULINE POVEY TRUST, 25529 SE HOFFMEISTER RD., DAMASCUS, OR 97089
2	Claimant Name (individual or business) and Mailing Address
3	Claimant Name (individual or business) and Mailing Address

II. NAME AND CONTACT INFORMATION OF PRIMARY CONTACT/AGENT

Name William C. Cox, Attorney	Business Name
Mailing Address 0244 SW CALIFORNIA ST.	
City PORTLAND	State OR
Zip 97219	
Telephone Number 503-246-5499	Fax Number 503-244-8750
E-Mail Address	

III. MEASURE 49 ELECTION – Choose only one of the following. Check the box next to your election. Please review the enclosed Measure 49 Election Instructions before completing this section.

EXPRESS
 CONDITIONAL
 VESTED
 WITHDRAWAL
 UGB/CITY WITHDRAWAL

IV. SIGNATURE OF ALL CLAIMANTS OR THE AGENT

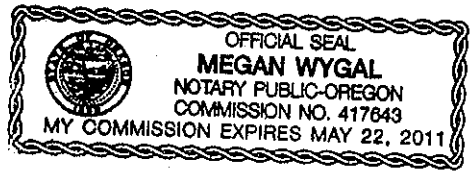
I/WE HEREBY DECLARE UNDER PENALTIES OF FALSE SWEARING (ORS 162.075 AND ORS 162.085) THAT THE ABOVE INFORMATION AND ALL OF THE STATEMENTS, DOCUMENTS AND ATTACHMENTS SUBMITTED WITH THIS CLAIM ARE TRUE AND CORRECT.

1	Print Name William C. Cox	Signature <i>William C. Cox</i>	Date 5/07/08
2	Print Name	Signature	Date
3	Print Name	Signature	Date

Notarization

STATE OF Oregon COUNTY OF Multnomah
 Signed or attested before me on May 7, 2008, by William C. Cox

Megan Wygal
 Notary Public – State of Oregon
 My commission expires: May 22, 2011





Department of Land Conservation and Development
 635 Capitol Street NE, Suite 150
 Salem, Oregon 97301-2540
 (503) 373-0050
 www.oregon.gov/LCD

Attachment 4: Velma Pauline Povey Measure 49 Claim

Measure 49 Supplemental Review Information Form

SUPPLEMENTAL REVIEW INFORMATION - Please provide the following information if you elected either the Express or Conditional option. Attach additional sheets as necessary.

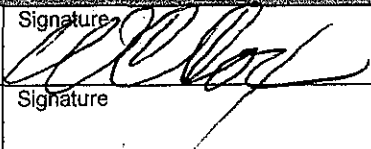
1	Please provide your state Measure 37 claim number: M <u>131749</u>				
2	Please identify the property that was subject to your state Measure 37 claim:				
	Township <u>2S</u>	Range <u>3E</u>	Section <u>2</u>	Tax Lot <u>1410</u>	
	Township <u>2S</u>	Range <u>3E</u>	Section <u>2</u>	Tax Lot <u>1412</u>	
	Township	Range	Section	Tax Lot	
	Township	Range	Section	Tax Lot	
3	Do any of the claimants own any property that is contiguous to the property that was subject to your state Measure 37 claim? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, please provide the information below.				
	Claimant Name	Township	Range	Section	Tax Lot
	Claimant Name	Township	Range	Section	Tax Lot
	Claimant Name	Township	Range	Section	Tax Lot
	Claimant Name	Township	Range	Section	Tax Lot
4	Do any of the claimants own any other property for which another state Measure 37 claim was filed? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, please provide the other claim number(s) below.				
	M _____	M _____	M _____	M _____	
5	Does the property, including any contiguous property in the same ownership, currently contain one or more dwellings? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If yes, how many? <u>1</u>				
6	Please provide a copy of a county tax assessor's map indicating the boundaries of the subject property and all contiguous properties owned by a claimant. Mark the approximate location(s) of any dwelling(s) currently existing on the subject property and on all contiguous properties. <u>ATTACHED</u>				
7	How many lots or parcels are you requesting under Measure 49? <u>8</u>				
8	How many dwellings are you requesting under Measure 49? <u>8</u>				

9	Was the property, including any contiguous property in the same ownership, in farm use when the claimant(s) acquired it? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN <small>Attachment 29 Velina Pauline Povey Measure 49 claim</small>		
10	Was the property, including any contiguous property in the same ownership, in forest use when the claimant(s) acquired it? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		
11	Was the property, including any contiguous property in the same ownership, in a farm- or forestland property tax-deferral program when the claimant(s) acquired it? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN		
12	Is the property, including any contiguous property in the same ownership, located within an irrigation district, drainage district, water improvement district or water control district or within the boundaries of a corporation organized under ORS chapter 554? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> DAMASCUS CITY		
13	Is your state Measure 37 claim currently in litigation? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
	Case Number	Case Name	Where Filed (LUBA, circuit court or court of appeals)

IV OTHER RELEVANT INFORMATION - If you have relevant information that you did not submit with your state Measure 37 claim, or if information has changed, please include that information with your election form. Such information, together with the information submitted with your state Measure 37 claim, will be used in determining your eligibility for relief under Measure 49.

- Relevant information includes, but is not limited to:
- Recorded deeds or land sale contracts showing when the claimant(s) acquired the property
 - Death and/or marriage certificates establishing when the claimant(s) acquired the property for purposes of Measure 49
 - Trust information if the property is held in a trust
 - Deed cards or plat cards verifying current ownership and when the claimant(s) acquired the property
 - Property tax records verifying current ownership of the property
 - Property tax records verifying property use at time of acquisition
 - Documentation of any prior land use decisions involving the property
 - Evidence helping to establish that the number of home sites requested would be approved

III SIGNATURE OF ALL CLAIMANTS OR THE AGENT
 I/WE HEREBY DECLARE UNDER PENALTIES OF FALSE SWEARING (ORS 162.075 AND ORS 162.085) THAT THE ABOVE INFORMATION AND ALL OF THE STATEMENTS, DOCUMENTS AND ATTACHMENTS SUBMITTED WITH THIS CLAIM ARE TRUE AND CORRECT.

1	Print Name William C. Cox	Signature 	Date 5/07/08
2	Print Name	Signature	Date
3	Print Name	Signature	Date



Department of Land Conservation and Development
 635 Capitol Street NE, Suite 150
 Salem, Oregon 97301-2540
 (503) 373-0050
 www.oregon.gov/LCD

Attachment 4: Velma Pauline Povey Measure 49 Claim

Measure 49 Supplemental Review Consent Form

Claimants who elect either the Express or Conditional option must obtain consent from each owner of the subject property who is not a claimant. Each non-claimant owner must complete this form separately. Please photocopy this form as necessary.

I. STATE MEASURE 37 CLAIM NUMBER AND NAMES OF CLAIMANTS – Attach additional sheet if necessary.

State Measure 37 Claim Number: M <u>131749</u>	1	Claimant Name (Individual or business) <u>VELMA POVEY, TRUSTEE</u>
2	Claimant Name (individual or business)	3
		Claimant Name (individual or business)

II. NAME AND CONTACT INFORMATION OF NON-CLAIMANT OWNER

Non-Claimant Owner Name (individual or business) <u>N/A</u>	If Business, Name of Representative
Mailing Address	Telephone Number
City	State
	Zip

III. SUBJECT PROPERTY (as identified in state Measure 37 claim) – Attach additional sheet if necessary.

	Township	Range	Section	Tax Lot
1	<u>N/A</u>			
2				
3				
4				
5				

IV. ACKNOWLEDGMENT OF CONSENT

I AM AN OWNER OF THE SUBJECT PROPERTY IDENTIFIED ABOVE. I HAVE REVIEWED THE STATE MEASURE 37 CLAIM RELATING TO THE PROPERTY IDENTIFIED ABOVE, AS WELL AS THE SUPPLEMENTAL INFORMATION REQUIRED UNDER MEASURE 49, AS PREPARED BY THE ABOVE NAMED CLAIMANT(S). I HEREBY CONSENT TO THE SUPPLEMENTAL REVIEW OF THIS STATE MEASURE 37 CLAIM UNDER MEASURE 49.

Print Name <u>N/A</u>	Signature	Date
--------------------------	-----------	------

Notarization

STATE OF _____ COUNTY OF _____
 Signed or attested before me on _____, 20____, by _____

Notary Public – State of _____
 My commission expires: _____

**CITY OF DAMASCUS
RESOLUTION NO. 07-143**

**RESOLUTION OF THE CITY OF DAMASCUS IN THE MATTER OF THE
CLAIM OF VELMA PAULINE POVEY PURSUANT TO BALLOT MEASURE 37 (2004)**

WHEREAS, pursuant to Ballot Measure 37, Velma Pauline Povey ("Claimant") filed Claim ZC577-06 (attached as Exhibit A) on November 29, 2006, regarding property located in Clackamas County (the "Property"), described as:

T2S-R3E Section 2A-Tax Lots 1410 and 1412.

WHEREAS, pursuant to City procedures to implement Measure 37, the claim was investigated by staff and a report dated April 6, 2007, was submitted regarding the claim. The Staff Report is attached hereto as Exhibit B and incorporated herein by reference.

WHEREAS, pursuant to City procedures, a hearing was held on the Exhibit A claim on April 16, 2007, for which appropriate notice was provided.

**NOW THEREFORE, THE DAMASCUS CITY COUNCIL RESOLVES AS
FOLLOWS:**

Section 1. The Property described in the Exhibit A claim is owned by the Claimant. Claimant acquired an interest in the Property on September 15, 1972, and has had a continuous ownership interest in all properties since those dates.

Section 2. Subsequent to Claimant's acquisition of the Property, land use regulations have been imposed on the Property, which, pursuant to Ballot Measure 37, may have reduced the value of the Property.

Section 3. Compensation may be owed under Ballot Measure 37 as a result of land use regulations adopted and enforced since Claimant's acquisition, but that the City Council finds it to be in the best interest of the City not to apply such regulations in lieu of compensation.

Section 4. Compensation shall not be paid on the claim, but in lieu thereof, the City shall not apply those land use regulations that restricted the use of, and caused devaluation of the Property, and that were imposed on the Property by the City after the date of acquisition of the Claimant described in Paragraph 1, as provided in the attached Staff Report, Exhibit B.

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

CITY OF DAMASCUS

19920 SE Hwy 212
Damascus Oregon, 97089
(503) 658-8545
www.ci.damascus.or.us

PLANNING DIVISION STAFF REPORT TO THE DAMASCUS CITY COUNCIL ON A CLAIM FILED UNDER ORS 197.352 (BALLOT MEASURE 37)

File Number: ZC577-06
Report Author: Jennifer Hughes, Senior Planner
Hearing Date: April 16, 2007
Report Date: April 6, 2007

Claimant: Velma Pauline Povey

Date Filed: November 29, 2006

180-Day Processing Deadline: May 28, 2007

Legal Description: T2S-R3E-Section 2A-Tax Lots 1410 and 1412

Site Address: 25529 SE Hoffmeister Rd, Damascus

Proposal/ Relief Requested: The claimant requests compensation in the amount of \$1,204,000 for a reduction in fair market land value due to the enforcement of land use regulations that restrict the use of the subject property. In the alternative, the claimant requests to divide the subject property into lots with a minimum size of one acre and develop a single-family dwelling on each lot not already containing a dwelling.

Ownership History/Date Acquired by Claimant: The claimant acquired an ownership interest in the subject property on September 15, 1972 and has had a continuous ownership interest since that date.

Zoning History: The first zoning of the property was RA-1, applied on December 14, 1967. The property was rezoned RRFF-5 on June 19, 1980.

Approved
Date
Initials
04/16/07
JH

- Subsection 309.08.B of the ZDO (minimum lot size standard in the RRF-5 zone)
 - Subsection 902.01.B of the ZDO (minimum lot size restrictions and exceptions)
 - Subsection 1013.06.A.3 of the ZDO (minimum lot size restrictions for planned unit developments)
 - Subsection 1014.04.B of the ZDO (minimum lot size restrictions for flexible-lot-size developments)
 - In review of a specific proposal for development, any comprehensive plan provisions or other land use regulations, except those exempted by ORS 197.352(3), which have the effect of reducing the number of lots or dwellings otherwise allowed by this order
- Approval of a land division or property line adjustment shall be subject to the minimum lot size standards of the RA-1 zone in effect on September 15, 1972.
- Notwithstanding any of the specific removals and modifications stated above, this decision at most authorizes the division of the subject property into lots with a minimum size of one acre and development of a single-family dwelling on each lot not already containing a dwelling.

Additional Comments:

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

METRO MEASURE 37 CLAIM

VELMA PAULINE POVEY REVOCABLE TRUST

WHAT IS PROPOSED: DIVISION OF 7.77 ACRES INTO 1 ACRE LOTS AS ALLOWED AT DATE OF ACQUISITION.

AT THE TIME OF ACQUISITION THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE . THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.


LEGAL DESCRIPTION:

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	LOT 1410 5.12 ACRES LOT 1412 2.65 ACRES	23E02A 01410 23E02A 01412	ACCOUNT # 00601637 ACCOUNT # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

NAME OF CONTACT PERSON: WILLIAM C. COX, ATTORNEY AT LAW
MAILING ADDRESS: 0244 SW CALIFORNIA STREET
CITY, STATE, ZIP: PORTLAND, OREGON 97219

OFFICE PHONE: 503-246-5499
CELL PHONE: 503-475-5475

PROPERTY OWNER: VELMA PAULINE POVEY, TRUSTEE

OWNER SIGNATURE:  SEE ATTACHED POWER OF
ATTORNEY BY WILLIAM C. COX, ATTORNEY IN FACT

- OTHER PERSONS WITH AN INTEREST IN THE PROPERTY:** SEE ATTACHED MEASURE 37 LOT BOOK SERVICE DOCUMENTS:
- EXACT DATE THE CURRENT OWNER ACQUIRED THE PROPERTY?** SEPTEMBER 15, 1972
- FAMILY HISTORY OF OWNERSHIP:** THE APPLICANT ACQUIRED THE PROPERTY IN 1972
NO PRIOR FAMILY OWNERSHIP.
- OFFENDING REGULATIONS:**

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020;	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION

	660-23-0000 TO 0250 Attachment 4: Velma Pauline Povey Measure 49 claim	
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM. IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

5. DATE OF EFFECT

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	AFTER PURCHASE WHICH OCCURRED IN 1972; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	THE METRO COUNCIL ADOPTED THE REGULATION THAT GIVES RISE TO THIS CLAIM ON SEPTEMBER 10TH, 1998, BY ORDINANCE 98-772B. METRO COUNCIL APPLIED THE REGULATION TO A PORTION OF THE CLAIMANTS' PROPERTY FOLLOWING THAT DATE. EXACT DATE UNCERTAIN.

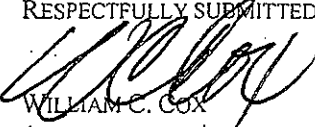
6. AMOUNT OF PROPERTY VALUE REDUCTION

FAIR MARKET VALUE REDUCTION AMOUNT APPROXIMATELY \$1,204,000.	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES AND LOCAL SPECIAL DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN
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	PROPERTY BY CLAIMANT Attachment 4: Verma Paimme Povey Measure 49 claim	PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
LAW OR RULE:	OAR 660-14-0040	SEE ABOVE
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	SEE ABOVE
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

7. **CLAIM:** THIS IS THE FIRST CLAIM MADE FOR COMPENSATION UNDER THE TERMS OF BALLOT MEASURE 37. IT IS CLAIMANT'S DESIRED RESOLUTION THAT SHE BE ALLOWED TO DEVELOP THE PROPERTY AT THE DENSITY ALLOWED ON THE DATE OF ACQUISITION ON 9/15/72 WHEN THE PROPERTY CONTAINED NO ZONING OR OVERLAY DESIGNATIONS. THE DESIRED DENSITY SHOULD BE ALLOWED WITHOUT REGARD TO ANY RESTRICTIONS. IN THE ALTERNATIVE CLAIMANT REQUESTS THAT HE BE REIMBURSED THE ABOVE EXPRESSED \$1,204,000
8. **BASIS OF LOSS ESTIMATE:** AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
9. **ADDITIONAL MATERIALS REQUESTED:**
- A. **REAL PROPERTY APPRAISAL:** THE VALUES USED HEREIN ARE CONSISTENT WITH SALES OF RURAL VIEW ACREAGE PROPERTIES IN THE COUNTY. IT IS APPLICANT'S OPINION THAT AN APPRAISAL IS ONLY RELEVANT IF THE COUNTY AND/OR STATE DECIDE TO ENFORCE THE CURRENT USE RESTRICTIONS. A CURRENT APPRAISAL WILL BE SUBMITTED WHEN NOTIFIED THAT THE COUNTY WILL PURCHASE THE PROPERTY. AN APPRAISAL SUBMITTED BEFORE KNOWING OF COUNTY'S DECISION WOULD LIKELY BE OUT OF DATE UNDER THE MEASURE 37 PROCESSING OBLIGATION OF 180 DAYS.
- B. **A TITLE REPORT:** SEE ATTACHED.
- C. **COPIES OF ANY LEASES OR COVENANTS.** NONE
- D. **CLAIMS PROCESSING FEE.** SUCH A FEE WILL BE SUBMITTED UPON PROOF THAT A GOVERNING AUTHORITY HAS AUTHORITY TO DEMAND A PROCESSING FEE UNDER THE TERMS OF MEASURE 37.

RESPECTFULLY SUBMITTED,


WILLIAM C. COX
ATTORNEY FOR APPLICANT

Attachment 4: Velma Pauline Povey Measure 49 claim
MEASURE 37 CLAIM WITH CITY OF DAMASCUS AND CLACKAMAS COUNTY
 CLACKAMAS COUNTY PLANNING DIVISION
 9101 SE SUNNYBROOK BLVD., CLACKAMAS, OREGON 97015
 PHONE (503)-353-4500, FAX (503)-353-4550

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

NOTE: THIS CLAIM IS COMBINED FOR SUBMITTAL ON THE UNDERSTANDING THAT CLACKAMAS COUNTY IS ADMINISTERING ALL CLAIMS FOR DAMASCUS. IF THAT IS INCORRECT PLEASE LET THE REPRESENTATIVE IDENTIFIED BELOW KNOW.

WHAT IS PROPOSED: DIVISION OF 7.77 ACRES INTO 1 ACRE LOTS AS ALLOWED AT DATE OF ACQUISITION.

AT THE TIME OF ACQUISITION THE SUBJECT PROPERTY COULD HAVE BEEN DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.

LEGAL DESCRIPTION:

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	LOT 1410 5.12 ACRES LOT 1412. 2.65 ACRES	23E02A 01410 23E02A 01412	ACCOUNT # 00601637 ACCOUNT # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

NAME OF CONTACT PERSON: WILLIAM C. COX, ATTORNEY AT LAW
 MAILING ADDRESS: 0244 SW CALIFORNIA STREET
 CITY, STATE, ZIP: PORTLAND, OREGON 97219

OFFICE PHONE: 503-246-5499
 CELL PHONE: 503-475-5475

PROPERTY OWNER: VELMA PAULINE POVEY, TRUSTEE

OWNER SIGNATURE:  SEE ATTACHED POWER OF ATTORNEY

BY WILLIAM C. COX, ATTORNEY IN FACT

MEASURE 37 CLAIM SUPPLEMENTAL INFORMATION

1. OTHER PERSONS WITH AN INTEREST IN THE PROPERTY: SEE ATTACHED MEASURE 37 LOT BOOK
 SERVICE DOCUMENTS:
2. EXACT DATE THE CURRENT OWNER ACQUIRED THE PROPERTY? SEPTEMBER 15, 1972

3. FAMILY HISTORY OF OWNERSHIP AS SHOWN ON APPRAISAL REPORT REQUIRED BY MEASURE 49 CLAIM PRIOR FAMILY OWNERSHIP.

4. OFFENDING REGULATIONS:

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION
LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	ALL STATE WIDE PLANNING GOALS AND ADMINISTRATIVE RULES, STATUTES, AND CODES ADOPTED AND/OR ENFORCEABLE SINCE ACQUISITION OF PROPERTY BY CLAIMANT	CLAIMANT HEREBY ASSERTS A CLAIM AGAINST EACH AND EVERY LAND USE REGULATION THAT RESTRICTS THE USE OF CLAIMANT'S PROPERTY AND HAS THE EFFECT OF REDUCING THE FAIR MARKET VALUE OF THE PROPERTY. THE LIST IS NOT INTENDED TO BE LIMITING OR OTHERWISE PRECLUDE CLAIMANT FROM SEEKING RELIEF FROM OTHER, NOT SPECIFICALLY IDENTIFIED, RESTRICTIVE REGULATIONS. CLAIMANT REQUESTS THAT THE COUNTY IDENTIFY OTHER REGULATIONS THAT RESTRICT THE DIVISION AND DEVELOPMENT OF CLAIMANT'S PROPERTY AS SOUGHT PURSUANT TO THIS CLAIM. IT IS NOT POSSIBLE TO KNOW AT THIS TIME WHETHER OR TO WHAT DEGREE ADDITIONAL REGULATIONS WILL BE ADOPTED THAT WILL RESTRICT THE DEVELOPMENT OF THE PROPERTY. CLAIMANT REQUESTS AND RESERVES THE RIGHT TO RESUBMIT TO THE COUNTY/BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION UNDER MEASURE 37 ANY LAND USE REGULATION THAT MAY, DURING THE DEVELOPMENT PROCESS, RESTRICT THE USE OF PROPERTY AND ACT TO REDUCE THE FAIR MARKET VALUE OF THE PROPERTY.
LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

5. DATE OF EFFECT

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
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6. AMOUNT OF PROPERTY VALUE REDUCTION

FAIR MARKET VALUE REDUCTION AMOUNT	ALL STATE WIDE PLANNING GOALS AND	BASIS OF EVALUATION: AT THE TIME OF PURCHASE THE SUBJECT PROPERTY COULD HAVE BEEN
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APPROXIMATELY \$1,204,000.	ADMINISTRATIVE RULES, STATUTE AND LOCAL SPECIAL DISTRICT CODES ADOPTED AND ENFORCED BY THE GOVERNING AUTHORITIES SINCE PURCHASE OF PROPERTY BY CLAIMANT	DIVIDED INTO AS MANY LOTS AS THE SANITATION RULES WOULD HAVE ALLOWED. EARLY COUNTY ZONING PLACED ALLOWED LOT SIZES AT 1 ACRE. THUS UP TO 7.77 LOTS COULD HAVE BEEN ALLOWED. THE 7.77 ACRES' CURRENT VALUE AS ZONED RR-5 WITH 20 ACRE MINIMUM IS APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPARABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
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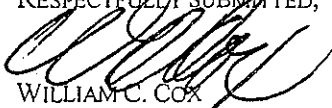
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B. **A TITLE REPORT:** SEE ATTACHED.

C. **COPIES OF ANY LEASES OR COVENANTS.** NONE

D. **CLAIMS PROCESSING FEE.** SUCH A FEE WILL BE SUBMITTED WHEN THE COUNTY PRESENTS APPLICANT WITH PROOF THAT A COUNTY HAS AUTHORITY TO DEMAND A PROCESSING FEES UNDER THE TERMS OF MEASURE 37.

RESPECTFULLY SUBMITTED,


WILLIAM C. COX
ATTORNEY FOR APPLICANT



M37 Claim Form

Department of Administrative Services

Risk Management - State Services Division

1225 Ferry St. SE U160, Salem, Oregon 97301-4292

Web Site: <http://www.oregon.gov/DAS/Risk/M37.shtml> Phone: 503-373-7475

SECTION 1 NAME /PROPERTY OWNER

NAME OF CLAIMANT: VELMA PAULINE POVEY, TRUSTEE	DAY TIME PHONE #: CONTACT AGENT IDENTIFIED BELOW
ADDRESS: SEE AGENT ADDRESS	

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

NAME OF AGENT: WILLIAM C. COX, ATTY. AT LAW	DAY TIME PHONE #: 503-246-5499	
ADDRESS: 0244 SW CALIFORNIA STREET		
CITY: PORTLAND	STATE: OREGON	97219
MUST ATTACH A WRITTEN NOTARIZED STATEMENT SIGNED BY THE OWNER(S) OR A POWER OF ATTORNEY PROPERLY AUTHORIZING SUBMITTAL OF THIS CLAIM. ATTACHMENT: YES X		

SECTION 3 NAMES AND CONTACT INFORMATION OF OTHERS WITH INTEREST IN THIS PROPERTY: NONE

SECTION 4 PROPERTY FROM WHICH THE CLAIM DERIVES

COUNTY:	CLACKAMAS	STATE: OREGON	ZIP:
TAX LOT #'S:	Lot 1410 5.12 acres Lot 1412. 2.65 acres	23E02A 01410 23E02A 01412	Account # 00601637 Account # 0150956
TOWNSHIP	SEE ABOVE		
RANGE	SEE ABOVE		
SEE LEGAL DESCRIPTION EXHIBIT A ATTACHED TO FIRST AMERICAN TITLE CHAIN OF TITLE			

SECTION 5 EVIDENCE OF OWNERSHIP

THE FOLLOWING IS ATTACHED AS PROOF OF OWNERSHIP:	FIRST AMERICAN TITLE MEASURE 37 LOT BOOK SERVICE
DATE OF ACQUISITION OF PROPERTY:	JUNE 1972 AND OCTOBER 1972
NATURE & SCOPE OF OWNERSHIP OF PROPERTY:	FEE SIMPLE

SECTION 6 NATURE AND MANNER OF RESTRICTION

LAW OR RULE:	OAR 660-14-0040	REDUCES RESIDENTIAL DENSITY ALLOWED ON SUBJECT PROPERTY
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	IMPOSES DEVELOPMENT LIMITATIONS BASED UPON CLAIMED RESOURCE DESIGNATION
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LAW OR RULE:	METRO CODE 3.07.1110	PROHIBITS CREATION OF LOTS WITH FEWER THAN 20 ACRES. REDUCES THE NUMBER OF HOMES ALLOWED ON SUBJECT PROPERTY.

SECTION 7 DATE ON WHICH EACH CITED LAND USE REGULATION BEGAN TO APPLY TO SUBJECT PROPERTY

LAW OR RULE:	OAR 660-14-0040	OCTOBER, 2000
LAW OR RULE:	GOAL 5 AND OAR 660-16-0000 TO 0020; 660-23-0000 TO 0250	AFTER PURCHASE WHICH OCCURRED IN 1972 EXACT DATES UNKNOWN; AT DATE OF CLACKAMAS COUNTY COMPREHENSIVE PLAN ACKNOWLEDGEMENT AND UPDATE ACKNOWLEDGEMENTS
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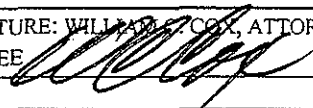
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	DISTRICT: Attachment 4: Velma Pauline Povey Measure 49 claim with 20 acre minimum is adopted and enforced by the governing authorities since purchase of property by claimant	APPROXIMATELY \$350,000. ITS VALUE AS RESIDENTIAL PROPERTY WITH NO ZONE IS ESTIMATED TO BE \$1,554,000 (7.77 LOTS AT \$200,000 EACH). THE VALUE FIGURES WILL BE MORE PRECISELY SUPPORTED BY AN APPRAISAL IF THE STATE, METRO AND/OR COUNTY INTENDS TO PURCHASE THE PROPERTY. SEE ALSO PREVIOUSLY SUBMITTED AREA COMPRABLES IN PRIOR METRO TITLE 11, SECTION 3.07.1110 CLAIMS INCLUDING, BUT NOT LIMITED TO, THE HANKS AND MIRACLE CLAIMS.
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LAW OR RULE:	CLACKAMAS COUNTY ZONING CODE	SEE ABOVE
LAW OR RULE:	METRO CODE TITLE 11, SECTION 3.07.1110	SEE ABOVE

SECTION 9 AUTHORITY TO ENTER PROPERTY

I/WE AFFIX OUR SIGNATURE(S) TO THIS FORM GRANTING ACCESS TO THE SUBJECT PROPERTY IN ANY MANNER OR FORM DEEMED APPROPRIATE BY STATE AGENCY OR AGENCIES FOR THE REVIEW OF THE PROPERTY IN FURTHERANCE OF THE PROCESSING OR HANDLING OF THIS CLAIM:

PRINTED NAME: VELMA PAULINE POVEY, TRUSTEE	SIGNATURE: WILLIAM F. COX, ATTORNEY FOR VELMA PAULINE POVEY TRUSTEE 
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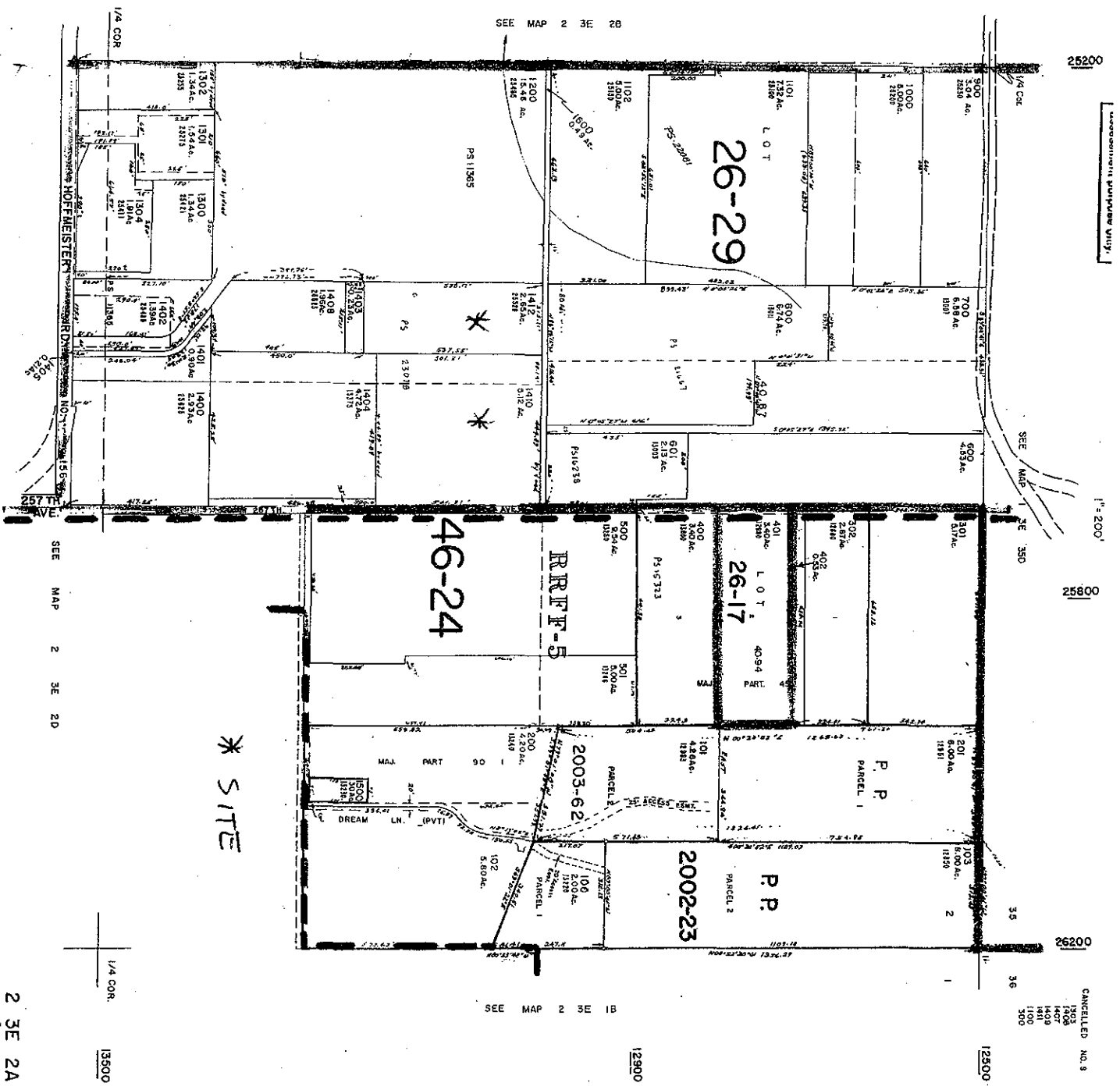
SECTION 10 ATTACHMENTS

TITLE REPORT: YES X	DEED: YES X	AFFIDAVITS: YES X	TAX MAP(S) YES X
A FEE WILL BE SUBMITTED UPON PROOF THAT A GOVERNING AUTHORITY HAS AUTHORITY TO DEMAND A PROCESSING FEE UNDER THE TERMS OF MEASURE 37.			

SECTION 11 OTHER CLAIMS FILED

COMPANION CLAIMS HAV BEEN FILED WITH THE METROPOLATIN SERVICE DISTRCT (METRO) AND CLACKAMAS COUNTY, CITY OF DAMASCUS.

Attachment 4: Velma Pauline Povey Measure 49 claim



25200

25800

26200

Measurement NUMBER 4117

CANCELED NO. 9

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SEE MAP 2 3E 2B

SEE MAP 2 3E 1B

SEE MAP 2 3E 2D

* SITE

1/4 COR.

13500

2 3E 2A
BOOK 20

**CLAIM FOR COMPENSATION
UNDER BALLOT MEASURE 49
AND METRO CODE CHAPTER 2.21**

REPORT OF THE METRO CHIEF OPERATING OFFICER

In Consideration of Council Order No 08-046

For the purpose of entering an order relating to the Velma Pauline Povey, Lila & Kenneth Saxon and Tigard Sand & Gravel, LLC, claims for compensation under Section 9 of Chapter 424 Oregon laws 2007 (Measure 49) and Metro Code Chapter 2.21

June 24, 2008

METRO CLAIM NUMBER: Claim No. 08-046

NAME OF CLAIMANT: Tigard Sand and Gravel, LLC

MAILING ADDRESS: c/o Elaine R. Albrich
Stoel Rives, LLP
900 SW Fifth Ave., Suite 2600
Portland, OR 97204

PROPERTY LOCATION: SW 120th Ave., Washington County, Oregon

LEGAL DESCRIPTION: T2S, R1W, Section 27C, tax lots 900, 300, 400
T2S, R1W, Section 34B, tax lots 100, 200, 800
T2S, R1W, Section 34C, tax lot 500

DATE OF CLAIM: June 6, 2008

I. CLAIM

Claimant, Tigard Sand and Gravel, LLC seeks an unspecified amount of compensation for a claimed reduction in fair market value (FMV) of property owned by the Claimant (map included as ATTACHMENT 1) as a result of enforcement of an unspecified Metro regulation. Claimant has not indicated a proposed use for the property.

For the purposes of this report, it is assumed that the claim is based on the regulations that the Claimant previously cited in a Measure 37 claim against Metro: the designation of the property as a Regionally Significant Industrial Area (RSIA) and the other conditions of the property's inclusion in the urban growth boundary (UGB) that are articulated in Exhibit B to Metro Ordinance 02-990A ("For the purpose of amending the urban growth boundary to add land in study areas 47 and 48, Tigard Sand and Gravel Site").

The Chief Operating Officer (COO) sent notice of date, time and location of the public hearing on this claim before the Metro Council on June 24, 2008. 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.oregonmetro.gov/measure49.

II SUMMARY OF COO RECOMMENDATION

The claim does not meet the basic requirements of Measure 49. The COO recommends that the Metro Council deny the claim for the reasons explained in section IV of this report.

III TIMELINESS OF CLAIM

Findings of Fact

Measure 49, section 10(3) requires that if a claimant has made a Measure 37 claim against Metro before June 28, 2007, but Metro did not make a final decision on the Measure 37 claim before the effective date of Measure 49, Metro shall send notice to the claimant within 90 days after the effective date of Measure 49, notifying the claimant of their right to seek relief under Measure 49.

The Claimant submitted a Measure 37 claim on December 4, 2006. The claim identified Metro's designation of the property as RSIA as the basis of the claim. The designation as RSIA was a condition of the property's inclusion in the UGB and is found in Exhibit B to Metro Ordinance No. 02-990A ("For the purpose of amending the urban growth boundary to add land in study areas 47 and 48, Tigard Sand and Gravel Site").

The Measure 37 claim also cites the lot reconfiguration plan that was another condition of the property's inclusion in the UGB. That condition, which is also found in Exhibit B to Metro Ordinance No. 02-990A, states that a parcel reconfiguration plan will be developed that results in (1) at least one parcel that is 100 acres or larger, and (2) at least one parcel 50 acres or larger.

The public record associated with Metro Ordinance No. 02-990A shows that Claimant supported the ordinance.

Claimant's Measure 37 claim was made before June 28, 2007. Metro had not made a final decision on Claimant's Measure 37 claim by December 6, 2007, the effective date of Measure 49.

Metro sent notice to Claimant on February 14, 2008, notifying Claimant of their rights under Measure 49. That notice was timely as it was sent within 90 days of December 6, 2007, the effective date of Measure 49.

Notified claimants have 120 days after the date of that notice to inform Metro, in writing, of their intention to continue the claim and to file the information required under Measure 49. That required information includes, but is not limited to, an appraisal, prepared as described in Sections 9(6) and 9(7) of Measure 49.

On June 6, 2008, Claimant filed an amended claim against Metro under Measure 49. That claim was timely as it was filed within 120 days of the February 14, 2008 notice from Metro.

Metro staff conducted a preliminary completeness review of Claimant's Measure 49 claim and sent a letter of tentative determination to Claimant on June 11, 2008 (ATTACHMENT 2). In that letter, Staff tentatively determined that the claim was incomplete because it lacked an appraisal as required by Measure 49 and Metro Code 2.21.030(c)(6), that the claim did not meet the basic requirements for a valid claim, and that the claimant was not entitled to relief under Section 9 of Measure 49.

Conclusions of Law

The claim does not meet this criterion. By the date of this report, Claimant's claim against Metro was incomplete.

IV. ANALYSIS OF CLAIM

1. Ownership

Metro Code Section 2.21.030(b)(1) states that for a claim to be valid, the claimant must be an owner of the property.

Findings of Fact

Metro Code section 2.22.020(d) defines "owner" to mean:

- (1) The owner of fee title to the property as shown in the deed records of the county where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or
- (3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner.

Claimant states that they acquired an ownership interest in the subject property on various dates (specified in the claim) in 1965 and 1966.

Conclusions of Law

The claim meets this criterion. The Claimant is the sole owner of the subject property as defined in the Metro Code.

2. Consent of All Owners

Metro Code Section 2.21.030(b)(2) states that for a claim to be valid, all owners must consent in writing to the filing of the claim.

Findings of Fact

Claimant's agent, Elaine Albrich of Stoel Rives, LLP has consented writing to the filing of the claim.

Conclusions of Law

The claim meets this criterion. All owners of the property have consented in writing, through their agent, to the filing of the claim.

3. Location of property within Metro UGB

Metro Code Section 2.21.030(3) ("Filing an Amended Claim") states that in order to qualify for compensation or waiver by Metro, a property must be wholly or partially located within Metro's UGB.

Findings of Fact

In 2002, the Metro Council expanded the UGB by adopting Ordinance No. 02-990A, including the Claimant's property in the UGB expansion area.

Conclusions of Law

The claim meets this criterion. The subject property is wholly within the Metro UGB.

4. Allowed number of single-family dwellings

Metro Code Section 2.21.030(4) states that for a claim to be valid, the claimant, on the claimant's property acquisition date, lawfully must have been permitted to establish at least the number of dwellings on the property that are authorized under Ballot Measure 49. Section 9(2) of Measure 49 states that the number of single-family dwellings that may be established may not exceed the lesser of:

- (a) The number of single-family dwellings described in a waiver issued by Metro, a city or a county before the effective date of Measure 49 (December 6, 2007) or, if a waiver was not issued, the number described in the claim filed with Metro, a city or a county;

- (b) 10, except that if there are existing dwellings on the property, the number of single-family dwellings that may be established is reduced so that the maximum number of dwellings, including existing dwellings located on the property, does not exceed 10; or
- (c) The number of single-family dwellings the total value of which represents just compensation for the reduction in fair market value caused by the enactment or one or more land use regulations that were the basis for the claim

Findings of Fact

Claimant asserts that the zoning of the subject property, at the time of Claimant's acquisition, allowed for the establishment of more than 10 lots. At the time of the UGB expansion, the subject property was designated as resource land. As such, portions of the property were designated EFU (80-acre minimum lot size) and portions were designated AF20 (20-acre minimum lot size). Washington County zoning maps indicate that the current zoning of the property is FD20 (Future Development, 20-acre minimum).

Metro has not issued a waiver to the Claimant of the RSIA designation and the other conditions (found in Exhibit B to Metro Ordinance 02-990A) of the property's inclusion in the UGB.

There are no existing single-family dwellings on the property.

Claimant has not provided an appraisal as required under Metro Code Section 2.21.030(c)(6) and Measure 49 Section 9(6) and 9(7).

Conclusions of Law

The claim does not adequately address this criterion. As described in Section 9(2) of Measure 49, the maximum number of allowable single-family dwellings is the lesser of choices a, b, and c (detailed above). In order to make that determination, there must be a quantification of diminished value (if any) that is attributable to the cited Metro regulation. Because Claimant has not provided an appraisal as required by Metro Code and Measure 49, Claimant has not provided adequate information to establish a right under Measure 49 to further divide the property into single-family lots.

5. Residential use

Metro Code Section 2.21.030(5) states that a claimant must establish that the property is zoned for residential use.

Findings of Fact

The current zoning of the property is FD20 (Future Development, 20-acre minimum) with the Metro designation of RSIA. Claimant has correctly stated in the claim that the property is not currently zoned for residential use.

Conclusions of Law

The claim does not meet this criterion. The subject property is not zoned for residential use.

6. Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that, for a claim to be valid, a claimant must establish that one or more land use regulations prohibit the establishment of the single-family dwellings.

Findings of Fact

This criterion's reference to "the single-family dwellings" refers to the number of dwellings that would be allowable under Measure 49. As previously noted, Claimant has not provided an appraisal, as required by Measure 49, that demonstrates a loss of value. Consequently, Claimant has not provided adequate

information to determine the maximum number of dwellings that would be allowable under Section 9(2) of Measure 49.

Neither the RSIA designation, nor any of the other conditions found in Metro Ordinance No, 02-990A (“For the purpose of amending the urban growth boundary to add land in study areas 47 and 48, Tigard Sand and Gravel Site”), prohibit the establishment of single-family dwellings. Because Claimant has not submitted an appraisal, it is not possible to determine whether the RSIA designation or the other conditions of Metro Ordinance No. 02-990A prohibit the number of dwellings to which Claimant would be entitled under section 9(2)(c) of Measure 49. An appraisal is a pre-requisite to a determination whether Claimant is eligible for the additional dwellings under Section 9(2)(c) of Measure 49.

Conclusions of Law

The claim does not meet this criterion. Neither the RSIA designation, nor any of the other conditions found in Metro Ordinance No, 02-990A (“For the purpose of amending the urban growth boundary to add land in study areas 47 and 48, Tigard Sand and Gravel Site”), prohibit the establishment of single-family dwellings. Furthermore, Claimant, in failing to provide an appraisal, has not provided adequate basis to support their asserted right to further divide the property into an unspecified number of single-family residential lots.

7. Exemptions under ORS 197.352(3)

Metro Code Section 2.21.030(b)(7) states that land use regulations as described in ORS 197.352(3) that prohibit the establishment of a single-family dwelling are exempt under Measure 49.

Findings of Fact

ORS 197.352(3) states that a claim cannot be made under Measure 49 for land use regulations that:

- (a) Restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) Restrict or prohibit activities for the protection of public health and safety;
- (c) Are required to comply with federal law; or
- (d) Restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing.

Conclusions of Law

The claim meets this criterion. Neither the RSIA designation, nor any of the other conditions found in Metro Ordinance No, 02-990A (“For the purpose of amending the urban growth boundary to add land in study areas 47 and 48, Tigard Sand and Gravel Site”) are exempt from Measure 49 under ORS 197.352(3).

8. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in the UGB

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the UGB.

Findings of Fact

Section 2(3) of Measure 49 defines “enacted” as enacted, adopted, or amended.

On December 12, 2002, the Metro Council expanded the UGB by adopting Ordinance No. 02-990A (effective March 12, 2003), thereby including the Claimant’s property in the UGB. That same ordinance, in its Exhibit B, simultaneously applied the RSIA designation and the other conditions cited by Claimant.

Conclusions of Law

The claim does not meet this criterion. The cited regulations were applied to the subject property simultaneously with the property's inclusion in the UGB (by the same ordinance). The regulation was not enacted after the date that the property was brought into the UGB.

9. Timing of the Enactment of the Metro Regulation and the Property's Inclusion in Metro's Jurisdictional Boundary

Metro Code Section 2.21.030(b)(9) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was included within the jurisdictional boundary of Metro.

Findings of Fact

The entire subject property has been inside Metro's jurisdictional boundary since the January 1, 1979 establishment of the boundary. The RSIA designation and the other conditions of the property's inclusion in the UGB became effective on March 12, 2003.

Conclusions of Law

The claim meets this criterion. The RSIA designation and the other conditions of the property's inclusion in the UGB were applied to the property after its inclusion in Metro's jurisdictional boundary.

10. Effect of the Land Use Regulation on Fair Market Value

Section 2.21.030(b)(10) of the Metro Code states that for a claim to be valid, the enactment of a land use regulation must have caused a reduction in the fair market value of the property. In order to demonstrate a reduction in value, Metro Code Section 2.21.030(c)(6) states that the Claimant must provide an appraisal showing the fair market value of the property one year before the enactment of the land use regulation and one year after enactment, and expressly determining the highest and best use of the property at the time the land use regulation was enacted. Sections 9(6) and 9(7) of Measure 49 provide further details regarding how diminished value is to be determined.

Findings of Fact

Claimant has not provided an appraisal to substantiate the claim (unspecified amount).

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that the RSIA designation and the other conditions of the property's inclusion in the UGB had the effect of reducing the fair market value of the subject property.

11. Highest and Best Use

Metro Code Section 2.21.030(b)(11) states that for a claim to be valid, at the time the land use regulation was enacted, the highest and best use of the property must have been residential use. Section 9(7)(c) of Measure 49 states that the appraisal to be provided by the Claimant must expressly determine the highest and best use of the property at the time that the land use regulation was enacted.

Findings of Fact

Claimant did not provide an appraisal, which would have established the property's highest and best use at the time that the RSIA designation and the other conditions of the property's inclusion in the UGB were applied to the property. Consequently, Claimant has provided no evidence that, at the time that the cited Metro regulation was enacted, the highest and best use of the property was residential use.

Conclusions of Law

The claim does not meet this criterion. Claimant has not demonstrated that, at the time that the regulation was applied to the property, the highest and best use was residential.

12. Relief for Claimant

Findings of Fact

Waiver of the RSIA designation and the other conditions of the property's inclusion in the UGB (found in Exhibit B to Metro Ordinance No. 02-990A) would diminish the region's supply of land for employment uses. It would also undermine the City of Tualatin's planning that is intended to create a complete and livable community with employment opportunities.

Conclusions of Law

Based on the record, the Claimant has not established that they are entitled to relief in the form of compensation or waiver of the RSIA designation and the other conditions of the property's inclusion in the UGB.

Recommendation of the Chief Operating Officer

The Metro Council should deny the Tigard Sand and Gravel, LLC claim for the following reasons:

As of the date of this report, the Claimant has not provided an appraisal. The claim is thus incomplete.

In the Measure 49 claim filing, the Claimant has not cited a specific Metro regulation as the cause of a loss of property value.

The property is not zoned for residential use.

The RSIA designation and the other conditions of the property's inclusion in the UGB do not prohibit single-family residential uses.

The cited regulations were applied to the property simultaneously (same ordinance) with the property's inclusion in the UGB, not after its inclusion.

Claimant has failed to provide an appraisal that establishes that, at the time the cited Metro regulations were applied to the property, residential use was the property's highest and best use.

Claimant has failed to provide an appraisal that demonstrates that the RSIA designation and the other conditions of the property's inclusion in the UGB had the effect of reducing the value of the subject property.

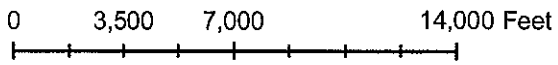
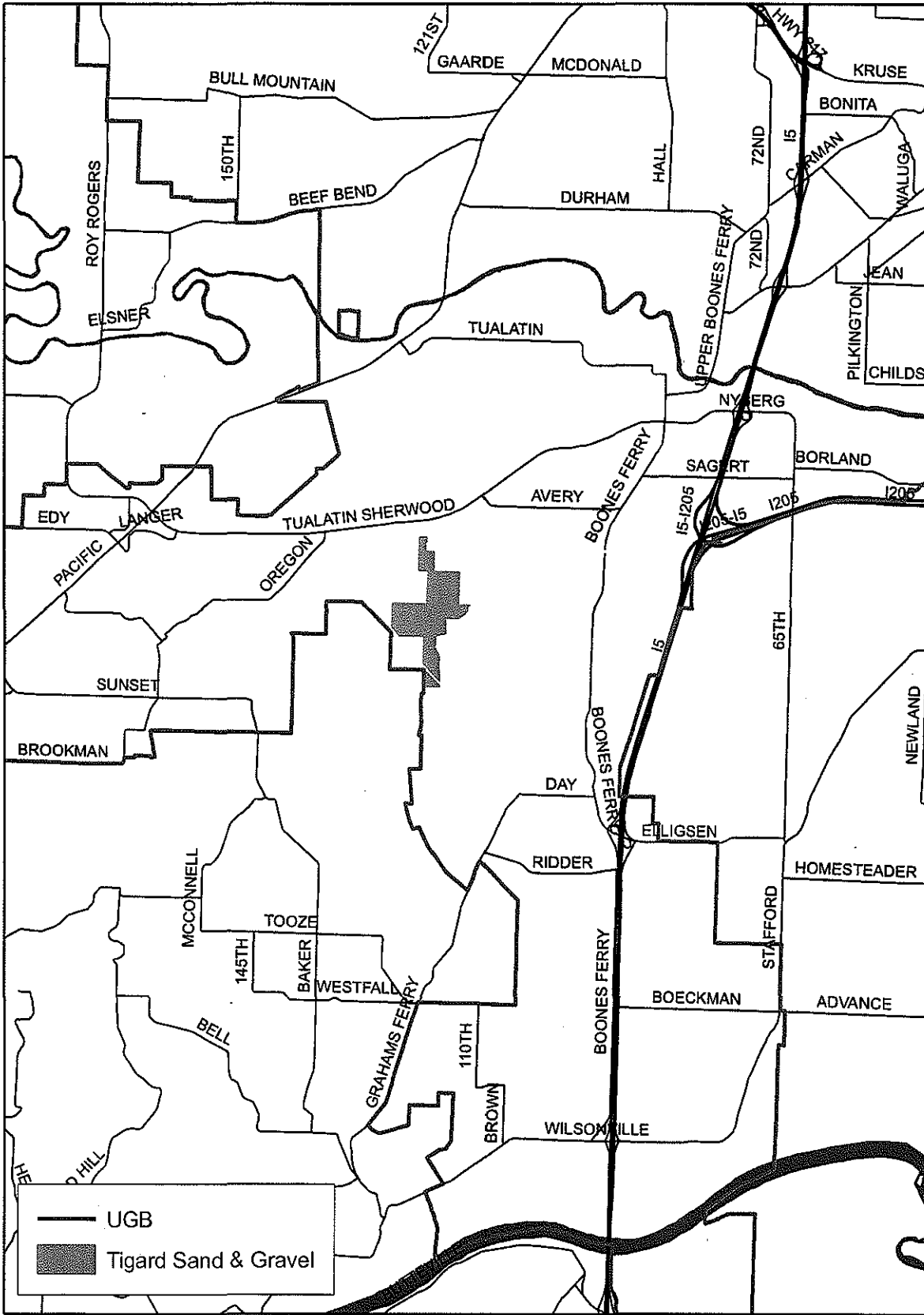
ATTACHMENTS TO THE REPORT OF THE CHIEF OPERATING OFFICER

Attachment 1: Site Map of the Tigard Sand and Gravel property

Attachment 2: June 11, 2008 letter of tentative determination from Metro to Claimant

Attachment 3: Tigard Sand & Gravel Measure 49 claim

Attachment 1 to COO Report







METRO

June 11, 2008

Elaine Albrich
Stoel Rives, LLP
900 SW Fifth Ave., Suite 2600
Portland, OR 97204

RE: Tigard Sand and Gravel Measure 49 claim against Metro

Property Location: SW 120th Ave., Washington County, Oregon ✓
Legal Description: T2S, R1W, Section 27C, tax lots 900, 300, 400
T2S, R1W, Section 34B, tax lots 100, 200, 800
T2S, R1W, Section 34C, tax lot 500

Dear Ms. Albrich:

We are in receipt of your client, Tigard Sand and Gravel's, Measure 49 claim against Metro. Pursuant to Section 10(4) of Measure 49, Metro has conducted a tentative review of the claim and has determined that the claimant does not qualify for relief under Section 9 of Measure 49. Pursuant to Section 10(4) of Measure 49, your client has fifteen (15) days from the date of this notice to submit additional evidence to support the claim, after which date the Metro Council will make a final determination on the claim.

Metro's tentative review of the claim identified the following deficiencies:

Zoning for residential use

Metro Code Section 2.21.030(5) and Section 9(5)(e) of Measure 49 require that for a claim to be valid, the property must be zoned for residential use. The claimant has stated in the claim that the property is *not* zoned for residential use. The property is currently zoned FD-20 (future development – 20-acre minimum lot size). The property was brought into the urban growth boundary (UGB) on December 12, 2002, with the Metro Council's adoption of Ordinance 02-990A. As a condition to the property's inclusion in the UGB, the ordinance also designated the claimant's property as a Regionally Significant Industrial Area. Once a permanent zoning designation is applied, it will reflect Metro's RSIA designation and will not be zoned for residential use.

Prohibition of establishing single-family dwellings

Section 9(5)(f) of Measure 49 states that a claimant must establish that one or more land use regulations prohibit the establishment of single-family dwellings. The claimant has not identified any specific Metro regulation as the basis of the claim.

Timing of regulation

Metro Code Section 2.21.030(b)(8) states that for a claim to be valid, the cited land use regulation must have been enacted after the date the property, or any portion of it, was brought into the UGB. As noted above, the claimant has not identified any specific Metro regulation as the basis for the claim. However, as also noted above, Metro's designation of the property as RSIA was simultaneous with its inclusion in

the UGB (both by Metro Ordinance 02-990A). The RSIA designation was not applied to the property after its inclusion in the UGB.

Appraisal required

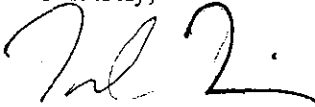
For a claim to be valid, a claimant must provide an appraisal, performed according to the standards set forth in Measure 49 Sections 9(6) and 9(7) and section 2.21.050(b)(6), that demonstrates a decrease in fair market value that was caused by the cited regulation. The claimant has not provided an appraisal and, thus, has not demonstrated a loss of value attributable to a Metro regulation.

Highest and best use

Metro Code Section 2.21.030(b)(11) states that for a claim to be valid, at the time the cited land use regulation was enacted, the highest and best use of the property must have been residential use. Section 9(7)(c) of Measure 49 states that the appraisal to be provided by the claimant must expressly determine the highest and best use of the property at the time that the land use regulation was enacted. As noted, the claimant has not cited a Metro regulation, nor has the claimant provided an appraisal that determines the property's highest and best use at the time of the enactment of the (unspecified) Metro regulation. At the time of the property's inclusion in the UGB, portions of the property were designated EFU (exclusive farm use, 80-acre minimum lot size) and portions were designated AF20 (agriculture, forestry, 20-acre minimum lot size). Neither of these designations is for residential use.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Ted Reid
Long Range Policy and Planning
(503) 797-1768
Ted.Reid@oregonmetro.gov

cc: Washington County
City of Tualatin
Department of Land Conservation and Development



900 S.W. Fifth Avenue, Suite 2600
Portland, Oregon 97204
main 503.224.3380
fax 503.220.2480
www.stoel.com

JUN - 6 2008

June 6, 2008

ELAINE R. ALBRICH
Direct (503) 294-9394
eralbrich@stoel.com

VIA HAND DELIVERY

Michael J. Jordan
Chief Operating Officer
Metro
600 NE Grand Avenue
Portland, OR 97323

Re: Tigard Sand and Gravel, Claim No. 07-027 Election

Dear Mr. Jordan:

Our office represents Tigard Sand and Gravel ("TSG") and, on its behalf, submits the Metro Measure 49 Election Claim Form for Claim No. 07-027 with supporting documentation. An appraisal will be provided under separate cover. Please contact me if Metro requires additional information to process TSG's claim under Measure 49.

Thank you for your consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Elaine R. Albrich".

Elaine R. Albrich

ERA/pjn
Enclosure

cc: Roger Metcalf
Robert D. Van Brocklin

RECEIVED

JUN 6 2008

OFFICE OF METRO ATTORNEY

Metro Measure 49 Claim Form

Claimants are also required to submit the items listed on the back of this form

Return completed form and additional listed items to:

Chief Operating Officer
Metro
600 NE Grand Ave.
Portland, OR 97232

Claimant name: Tigard Sand & Gravel (Claim No. 07-027)

Claimant mailing address: P.O. Box 4810

Tualatin, OR 97062

Claimant phone number: (503) 254-5517

- 1) Are you an owner of the property? yes
- 2) Are there other owners of the property? no
- 3) If there are other owners, do they all consent to the filing of this claim? N/A
Please have all owners sign the attached consent form.
- 4) On what date did you acquire the property? See Attachments A & B
- 5) Have you had continuous ownership of the property since you acquired it? yes
- 6) Is the property located, in whole or in part, inside the Metro urban growth boundary?
yes
- 7) On the date of your acquisition of the property, how many dwelling units were you
lawfully permitted to establish on the property? over 10 units
- 8) Is the property currently zoned for residential use? no
- 9) Does a Metro land use regulation prohibit the establishment of a single-family dwelling
on the property? yes
- 10) Is there currently a dwelling unit on the property? no
If so, how many dwelling units are there? N/A
- 11) Have you provided Metro with all of the additional items listed on the back of this form?
Appraisal will follow under separate cover.

**Tigard Sand and Gravel
Supplemental Information for Measure 49 Election**

**State Claim No. M133933
Metro Claim No. 07-027
Washington County Claim No. 37CL0860**

1. Measure 49 Election Form and Supplemental Information Forms

Tigard Sand and Gravel (“Claimant”) seeks to continue the above claim for property described in Attachment A. The election form is enclosed. Claimant is the sole owner of the property.

Measure 49 creates a distinction between urban and rural lands for processing retrospective Measure 37 claims. Claimant seeks to continue its claim under Measure 49 § 9 as all Claimant’s property is located within the urban growth boundary.

2. Proof of Ownership

Attachment B demonstrates proof of Claimant’s current ownership as well as the date of original acquisition.

3. Written Narrative

Attachment C outlines the desired use of the property and identifies the specific regulations prohibiting the proposed residential use.

4. Appraisal

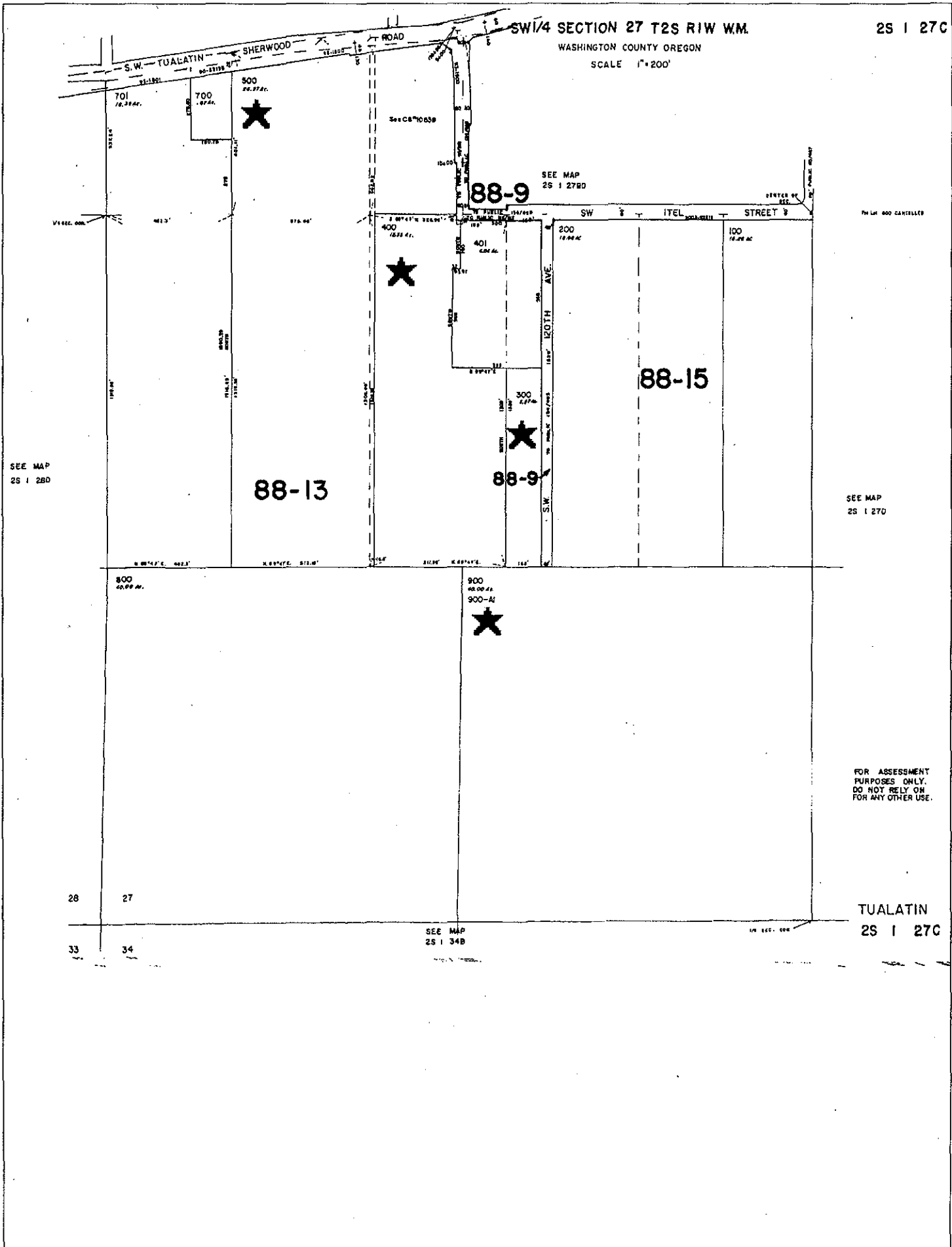
An appraisal demonstrating a reduction in fair market value will be provided as a supplement to this election form submission.

**ATTACHMENT A
PROPERTY INFORMATION**

Claimant's Urban Land

Property Number	Township	Range	Section	Tax Lot	Current Zoning	Original Zoning	Date Acquired	Acreage
R546868	2S	1W	27C	900	FD20	S-R	12/30/65	40
R1492236	2S	1W	34B	100	FD20	R-20	09/07/65	3.08
R558596	2S	1W	34B	100	FD20	R-20	09/07/65	58.68
R546797	2S	1W	27C	300	FD20	S-R	11/19/73	2.27
R546804	2S	1W	27C	400	FD20	S-R	11/19/73	12.33
R558603	2S	1W	34B	200	FD20	R-20	07/12/66	12.59
R558667	2S	1W	34B	800	FD20	R-20	07/12/66	15.53
R558729	2S	1W	34C	500	FD20	R-20	07/12/66	8.38

Approximately 153 acres

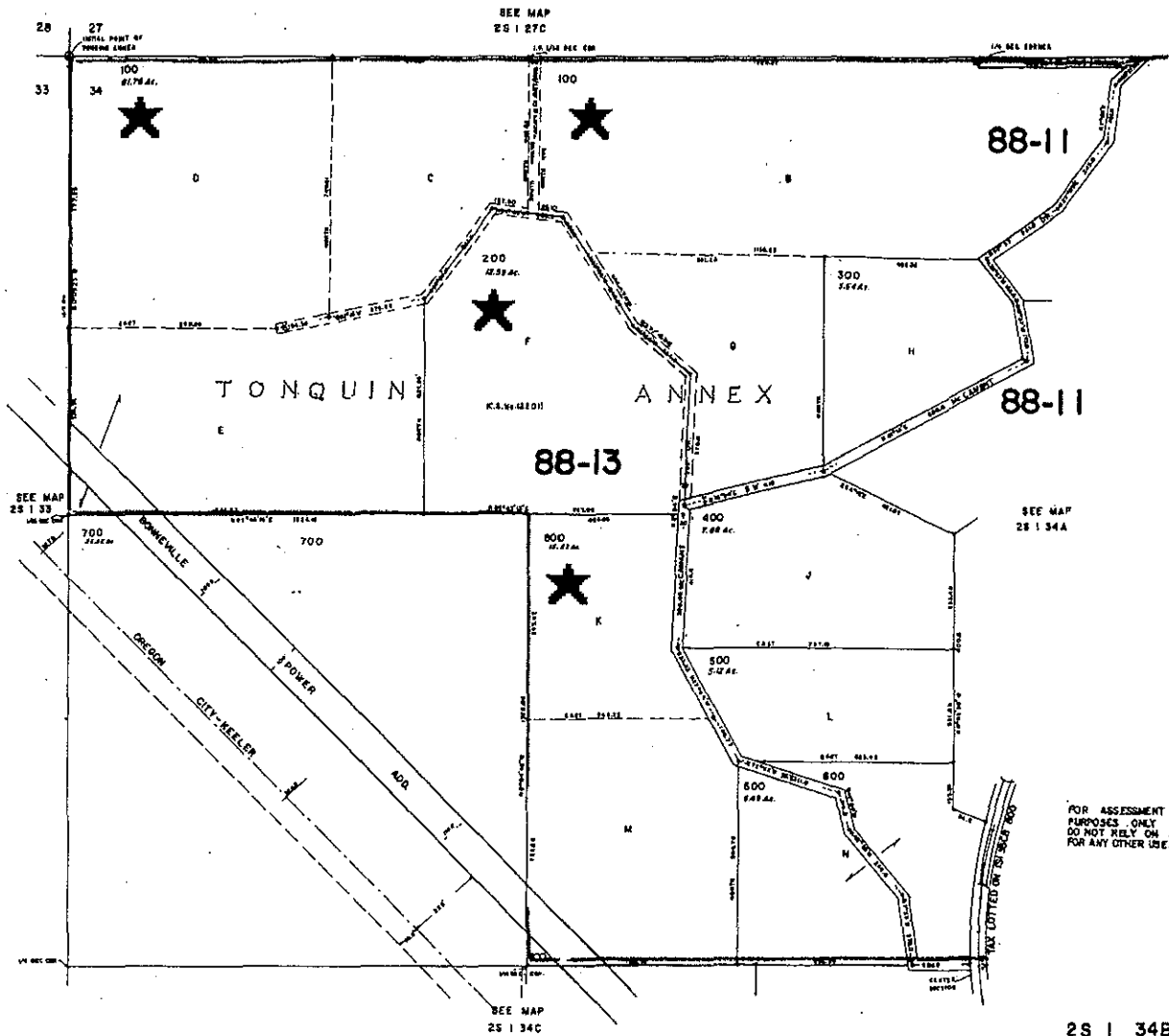


NW 1/4 SECTION 34 T2S R1W W.M.

WASHINGTON COUNTY OREGON

SCALE 1" = 200'

2S 1 34B



FOR ASSESSMENT PURPOSES - ONLY DO NOT RELY ON FOR ANY OTHER USE.

2S 1 34B

= METROSCAN PROPERTY PROFILE = Dated
Washington (OR)

June 3, 2008

=====
OWNERSHIP INFORMATION
=====

Reference Parcel #: 2S127C0 00300
Parcel Number : R0546797 RTSQ:01W - 02S - 27 - SW
Owner : Tigard Sand & Gravel Co Inc
CoOwner :
Site Address : *no Site Address*
Mail Address : 1220 SE 190th Ave Portland Or 97233
Telephone : Owner: Tenant:

=====
SALES AND LOAN INFORMATION
=====

Transferred : Loan Amount :
Document # : 9540540 Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate :
% Owned : Vesting Type :

=====
ASSESSMENT AND TAX INFORMATION
=====

MktLand : \$22,130 Exempt Amount :
MktStructure: Exempt Type :
MktOther : % Improved :
MktTotal : \$22,130 Levy Code : 08813
07-08 Taxes : \$264.18 School Dist : Sherwood
Assessed Tot: \$17,540

=====
PROPERTY DESCRIPTION
=====

Map Grid : Class Code :
Census : Tract: Block :
NbrhdCd : Yrin MillRate : 15.0613
Sub/Plat :
Land Use : 3002 Vacant, Industrial
Legal : ACRES 2.27

=====
PROPERTY CHARACTERISTICS
=====

Bedrooms : Lot Acres : 2.27 Year Built :
Bathrooms : Lot SqFt : 98,881 EffYearBlt :
Heat Method : BsmFin SF : Floor Cover :
Pool : BsmUnfinSF : Foundation :
Appliances : BsmLowSF : Roof Shape :
Dishwasher : Bldg SqFt : Roof Matl :
Hood Fan : 1stFlrSqFt : InteriorMat :
Deck : UpperFlSF : Paving Matl :
Garage Type : Porch SqFt : Const Type :
Garage SF : Attic SqFt : Ext Finish :
Deck SqFt :

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

= METROSCAN PROPERTY PROFILE =
Washington (OR)

=====

OWNERSHIP INFORMATION

=====

Reference Parcel #:2S127C0 00400
Parcel Number :R0546804 RTSQ:01W - 02S - 27 - SW
Owner :Tigard Sand & Gravel Co Inc
CoOwner :
Site Address :21455 SW 120th Tualatin 97062
Mail Address :1220 SE 190th Ave Portland Or 97233
Telephone :Owner: Tenant:

=====

SALES AND LOAN INFORMATION

=====

Transferred : Loan Amount :
Document # :9540540 Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate :
% Owned : Vesting Type :

=====

ASSESSMENT AND TAX INFORMATION

=====

MktLand :\$120,220 Exempt Amount :
MktStructure:\$20,370 Exempt Type :
MktOther : % Improved :14
MktTotal :\$140,590 Levy Code :08813
07-08 Taxes :\$1,750.59 School Dist :Sherwood
Assessed Tot:\$116,230

=====

PROPERTY DESCRIPTION

=====

Map Grid :685 B6 Class Code :
Census :Tract:321.05 Block :1
NbrhdCd :Yrin MillRate :15.0613
Sub/Plat :
Land Use :3012 Ind,Improved
Legal :ACRES 12.33

=====

PROPERTY CHARACTERISTICS

=====

Bedrooms : Lot Acres :12.33 Year Built :
Bathrooms : Lot SqFt :537,094 EffYearBlt :
Heat Method : BsmFin SF : Floor Cover :
Pool : BsmUnfinSF : Foundation :
Appliances : BsmLowSF : Roof Shape :
Dishwasher : Bldg SqFt : Roof Matl :
Hood Fan : 1stFlrSqFt : InteriorMatl :
Deck : UpperFlSF : Paving Matl :
Garage Type : Porch SqFt : Const Type :
Garage SF : Attic SqFt : Ext Finish :
Deck SqFt :

8343

BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, that OREGON ASPHALTIC PAVING CO., a corporation duly existing under the laws of the State of Oregon, Grantor, for valuable consideration, does hereby grant, bargain, sell and convey unto TIGARD SAND & GRAVEL CO., INC., an Oregon corporation, Grantee, and Grantee's successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Washington, State of Oregon, described as follows, to-wit:

Beginning 10.0 rods East of the Northwest corner of the Northeast quarter of the Southwest quarter of Section 27, Township 2 South of Range 1 West of the Willamette Meridian; Washington County, Oregon, and running thence 10.0 rods; thence South 80.0 rods; thence West 10.0 rods and thence 80.0 rods to the place of beginning, EXCEPTING therefrom the North 20 feet and the East 40.0 feet thereof heretofore conveyed to the public for road purposes; ALSO; Beginning at a point 975.46 feet East of the quarter section corner between Sections 27 and 28, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon; running thence South 1315.38 feet; thence North 89°47' East 511.99 feet to a point; thence North 78 rods 13 feet to the South boundary of 20 foot deeded road; thence West along the Southerly boundary of said deeded road a distance of 10 rods 20 feet to an angle point; thence North 20 feet along the Westerly boundary of said deeded road a distance of 20 feet to a point; thence South 89°47' West 326.99 feet to the place of beginning, EXCEPTING the West 1 rod thereof which was conveyed to Joe Itef, et ux, by deed in Book 178, Page 225, deed records of Washington County, Oregon

EXCEPTING THEREFROM that certain property conveyed by Grantor to Harold B. Stark and Sylvia Stark, husband and wife, and Richard A. Stark and Jan Stark, husband and wife, by Deed dated January 4, 1972, as described on Exhibits "A" and "B" attached hereto,

but including in this conveyance Grantor's right and title to Easement No. 1 and Easement No. 2 described in Exhibit "A" and "B" attached hereto.

To Have and to Hold the same unto the Grantee and Grantee's successors and assigns forever.

The actual consideration consists of other value given which is the whole consideration.

IN WITNESS WHEREOF, Grantor has caused this deed to be

BOOK 954 PAGE 540

8343

executed this 19th day of November, 1973.

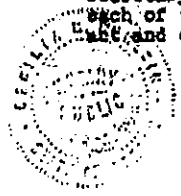
OREGON ASPHALTIC PAVING CO.

By Orin W. Adams Pres
By Jack C. Hearn Sec

STATE OF OREGON }
County of Multnomah } ss.

November 19, 1973

Personally appeared Orin Adams and Jack C. Hearn, the president and secretary of Oregon Asphaltic Paving Co., a corporation, and each of them acknowledged said instrument to be its voluntary act and deed.



Cynthia J. Worley
Notary Public for Oregon
My Commission Expires: Nov 14, 1975

RETURN AFTER RECORDING TO:

Kobin & Meyer
Suite 800, 610 SW Alder
Portland, Oregon 97205

BOOK 954 PAGE 541

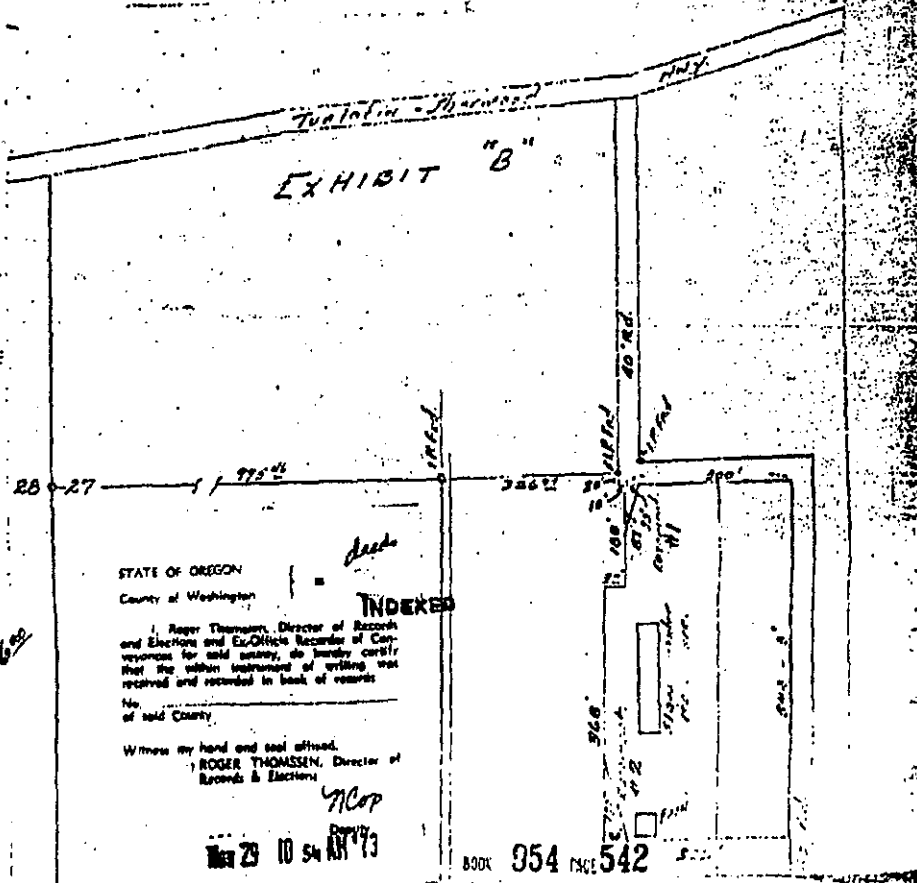
8343

EXHIBIT "A"

Being portions of Tax Lots 25 and 26 in Section 27, T.2 S., R.1 W., W.M., and being more particularly described as follows:

Beginning at a point 975.46 feet East of the Quarter Section corner between Sections 27 and 28, T.2 S., R.1 W., W.M., in Washington County, Oregon; running thence N. 89° 47' E. 326.99 feet to an iron pipe on the West line of a 40 foot deeded road; thence South along said West line 20 feet to the Southwest corner of said 40 foot deeded road; thence N. 89° 47' E. along the South line of said road 10 feet to the true point of beginning of the parcel herein described; thence South 180 feet to a point; thence S 89° 47' W. 32 feet to a point; thence South 368 feet to a point; thence N 89° 47' E. 332 feet more or less to a point in the West line of a 40 foot deeded road; thence North along said West line of said deeded road 140 feet to the South line of a 40 foot deeded road; thence S 89° 47' W. along said South line of said deeded road 300 feet, more or less, to the point of beginning, and reserving therefrom to the grantor two permanent easements for roadway purposes as shown on Exhibit "B" below and more particularly described as follows:

Easement No. 1: Beginning at the point of beginning above described; thence S. 87 feet; thence North-easterly to a point 30 feet east of the point of beginning along the south line of the road; thence 30 feet West along the south line of the road to the point of beginning; and
Easement No. 2: Beginning at the Southwest corner of the herein described property; thence north 130 feet; thence southeasterly to a point along the south boundary of the above described property which is 40 feet east of said southwest corner; thence west 40 feet to said southwest corner.



FORM NO. 611-WARRANTY DEED

3917

STREET USE ONLY FOR THE CO. OF RECORDS

KNOW ALL MEN BY THESE PRESENTS, That Walter E. Stockman and Audrey A. Stockman, husband and wife,

In consideration of Ten (\$10) and other valuable consideration, hereinafter called the grantor, Dollars,

to grantor paid by OREGON ASPHALTIC PAVING CO., a corporation, 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 Washington and State of Oregon, described as follows, to-wit: Beginning 10.0 rods East of the Northwest corner of the Northeast quarter of the Southwest quarter of Section 27, Township 2 South of Range 1 West of the Willamette Meridian, Washington County, Oregon, and running thence 10.0 rods; thence South 80.0 rods; thence West 10.0 rods and thence 80.0 rods to the place of beginning, EXCEPTING therefrom the North 20 feet and the East 40.0 feet thereof heretofore conveyed to the public for road purposes, ALSO: Beginning at a point 975.46 feet East of the quarter section corner between Sections 27 and 28, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon; running thence South 1315.38 feet; thence North 89°47' East 511.99 feet to a point; thence North 78 rods 13 feet to the South boundary of 20 foot deeded road; thence West along the Southerly boundary of said deeded road a distance of 10 rods 20 feet to an angle point; thence North 20 feet along the Westerly boundary of said deeded road a distance of 20 feet to a point; thence South 89°47' West 326.99 feet to the place of beginning, EXCEPTING the West 1 rod thereof which was conveyed to Job Itai, et ux, by deed in Book 178 (**cont. below)

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. The actual consideration paid for this transfer stated in terms of dollars is \$14,989.42.

In witnessing this deed and where the context so requires, the singular includes the plural. WITNESS grantor's hand and seal this 24th day of August, 1966

Walter E. Stockman (Seal)

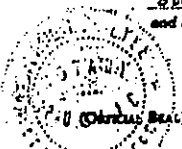
Audrey A. Stockman (Seal)

**Page 225, deed records Washington County, Oregon

STATE OF OREGON, County of Multnomah, August 24th, 1966

Personally appeared the above named Walter E. Stockman and Audrey A. Stockman, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon My commission expires MAY 3, 1970



WARRANTY DEED

WALTER E. STOCKMAN,

et ux

TO OREGON ASPHALTIC PAVING CO.

AFTER RECORDING RETURN TO

Robin & Meyer 514 1/2 SW 10th Portland, Oregon 97205 Suite 200, 610 S.W. Alder

STATE OF OREGON County of Washington

INDEXED

DO NOT USE THIS SPACE, RESERVE FOR SUBSCRIBER LABEL OR COPY THIS SPACE ONLY

Register of Records and Elections of the County of Washington, Oregon, do hereby certify that the foregoing instrument was received by me on this 19th day of August, 1966.



APR 19 9 13 AM '71

BOOK 813 PAGE 392

= METROSCAN PROPERTY PROFILE =
Washington (OR)

*

*

=====

OWNERSHIP INFORMATION

=====

*

* Reference Parcel #:2S127C0 00900 RTSQ:01W - 02S - 27 - SW

* Parcel Number :R0546868

* Owner :Tigard Sand & Gravel Co Inc

* CoOwner :

* Site Address :21455 SW 120th Tualatin 97062

* Mail Address :1220 SE 190th Ave Portland Or 97233

* Telephone :Owner: Tenant:

*

*

=====

SALES AND LOAN INFORMATION

=====

*

* Transferred : Loan Amount :

* Document # :5860002 Lender :

* Sale Price : Loan Type :

* Deed Type : Interest Rate :

* % Owned : Vesting Type :

*

*

=====

ASSESSMENT AND TAX INFORMATION

=====

*

* MktLand :\$390,000 Exempt Amount :

* MktStructure:\$486,410 Exempt Type :

* MktOther : % Improved :56

* MktTotal :\$876,410 Levy Code :08813

* 07-08 Taxes :\$11,690.45 School Dist :Sherwood

* Assessed Tot:\$776,190

*

*

=====

PROPERTY DESCRIPTION

=====

*

* Map Grid :685 B6 Class Code :

* Census :Tract:321.05 Block :1

* NbrhdCd :Yrin MillRate :15.0613

* Sub/Plat :

* Land Use :3012 Ind,Improved

* Legal :ACRES 40.00, SEE A1 ACCOUNT

*

*

=====

PROPERTY CHARACTERISTICS

=====

*

* Bedrooms : Lot Acres :40.00 Year Built :

* Bathrooms : Lot SqFt :1,742,400 EffYearBlt :

* Heat Method : BsmFin SF : Floor Cover :

* Pool : BsmUnfinSF : Foundation :

* Appliances : BsmLowSF : Roof Shape :

* Dishwasher : Bldg SqFt :3,120 Roof Matl :

* Hood Fan : 1stFlrSqFt :3,120 InteriorMat :

* Deck : UpperFlSF : Paving Matl :

* Garage Type : Porch SqFt : Const Type :

* Garage SF : Attic SqFt : Ext Finish :

*

*

*

*Information compiled from various sources. Real Estate Solutions makes no representations
or warranties as to the accuracy or completeness of information contained in this report.*

= METROSCAN PROPERTY PROFILE =
 Washington (OR)

=====

OWNERSHIP INFORMATION
 =====

Reference Parcel #: 2S127C0 00900
 Parcel Number : R0546877 RTSQ:01W - 02S - 27 - SW
 Owner : Safeco Credit Co Inc
 CoOwner :
 Site Address : *no Site Address*
 Mail Address : 1220 SE 190th Ave Portland Or 97233
 Telephone : Owner: Tenant:

=====

SALES AND LOAN INFORMATION
 =====

Transferred : Loan Amount :
 Document # : Lender :
 Sale Price : Loan Type :
 Deed Type : Interest Rate :
 % Owned : Vesting Type :

=====

ASSESSMENT AND TAX INFORMATION
 =====

MktLand : Exempt Amount :
 MktStructure: \$556,630 Exempt Type :
 MktOther : % Improved : 100
 MktTotal : \$556,630 Levy Code : 08813
 07-08 Taxes : \$8,245.03 School Dist : Sherwood
 Assessed Tot: \$556,630

=====

PROPERTY DESCRIPTION
 =====

Map Grid : Class Code :
 Census : Tract: Block :
 NbrhdCd : Ytsh MillRate : 15.0613
 Sub/Plat :
 Land Use : 3012 Ind, Improved
 Legal : MACHINERY AND/OR EQUIPMENT ONLY

=====

PROPERTY CHARACTERISTICS
 =====

Bedrooms : Lot Acres : Year Built :
 Bathrooms : Lot SqFt : EffYearBlt :
 Heat Method : BsmFin SF : Floor Cover :
 Pool : BsmUnfinSF : Foundation :
 Appliances : BsmLowSF : Roof Shape :
 Dishwasher : Bldg SqFt : Roof Matl :
 Hood Fan : 1stFlrSqFt : InteriorMat :
 Deck : UpperFlsF : Paving Matl :
 Garage Type : Porch SqFt : Const Type :
 Garage SF : Attic SqFt : Ext Finish :

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

FORM NO. 533-WARRANTY DEED

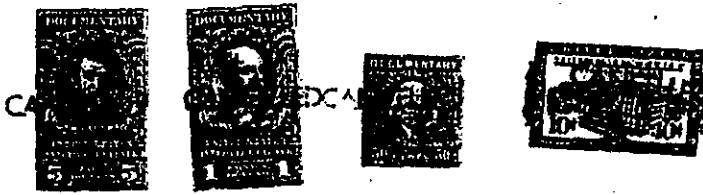
STATIONER LAW FIRM, PORTLAND, ORE.

243-169

3180

KNOW ALL MEN BY THESE PRESENTE, That we, **WALTER R. HAWKHURST and BOBETTE A. HAWKHURST, husband and wife**, hereinafter called the grantor, in consideration of Ten and no/100 Dollars, and other valuable consideration to grantor paid by **TIGARD SAND AND GRAVEL CO., INC.**, an Oregon corporation, 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 **Washington** and State of Oregon, described as follows, to-wit:

The Southeast Quarter of the Southwest Quarter of Section 27, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon



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 EXCEPTING rights of the public in any portion within streets, roads and highways; conditions, restrictions and assessments of public record and any encumbrances arising on and after November 29, 1955

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 whatsoever, except as above stated.

In construing this deed and where the context so requires, the singular includes the plural, WITNESS grantor's hand and seal this 30th day of December, 1965

Walter R. Hawkhurst (SEAL)
Bobette A. Hawkhurst (SEAL)

STATE OF CALIFORNIA, County of Riverside, December 30, 1965
 Personally appeared the above named **WALTER R. HAWKHURST and BOBETTE A. HAWKHURST** and acknowledged the foregoing instrument to be their voluntary act and deed.

(SEAL) **WILLARD C. JOY**
 NOTARY PUBLIC - CALIFORNIA
 COUNTY OF RIVERSIDE

Before me:
Willard C. Joy
 Notary Public for Oregon, California
 My commission expires
 WILLARD C. JOY, NOTARY PUBLIC IN AND FOR
 RIVERSIDE COUNTY, CALIFORNIA
 My commission expires January 17, 1968

127

3180

WARRANTY DEED
 Walter R. Hawkhurst et ux
 TO
 Tigard Sand & Gravel Co., Inc.
 AFTER RECORDING RETURN TO
Robin & Myer, attys
Oregon Bank Bldg
Portland, Ore

ISN'T SEE THIS SPACE, RESERVE FOR RECORDING LABEL IN FRONT THIS WHERE USED.

INDEXED
 STATE OF OREGON
 County of Washington
 I, Roger Thomassen, Director of Records and Surveys and Ex-Officio Reporter of Conveyances for said county, do hereby certify that the within instrument of writing was received and recorded in Book _____ of said County of _____
 Witness my hand and seal this _____ day of _____ 1966
 ROGER THOMASSEN, Director
 Deputy
 Jan 26 10 51 AM '66

= METROSCAN PROPERTY PROFILE =
Washington (OR)

=====
OWNERSHIP INFORMATION
=====

Reference Parcel #:2S134C0 00500
Parcel Number :R0558729 RTSQ:01W - 02S - 34 - SW
Owner :Tigard Sand & Gravel Co Inc
CoOwner :
Site Address :*no Site Address*
Mail Address :1220 SE 190th Ave Portland Or 97233
Telephone :Owner: Tenant:

=====
SALES AND LOAN INFORMATION
=====

Transferred : Loan Amount :
Document # : Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate :
% Owned :100 Vesting Type :

=====
ASSESSMENT AND TAX INFORMATION
=====

MktLand :\$81,710 Exempt Amount :
MktStructure: Exempt Type :
MktOther : % Improved :
MktTotal :\$81,710 Levy Code :08813
07-08 Taxes :\$974.92 School Dist :Sherwood
Assessed Tot:\$64,730

=====
PROPERTY DESCRIPTION
=====

Map Grid : Class Code :
Census :Tract: Block :
NbrhdCd :Yrin MillRate :15.0613
Sub/Plat :
Land Use :3002 Vacant,Industrial
Legal :ACRES 8.38

=====
PROPERTY CHARACTERISTICS
=====

Bedrooms : Lot Acres :8.38 Year Built :
Bathrooms : Lot SqFt :365,032 EffYearBlt :
Heat Method : BsmFin SF : Floor Cover :
Pool : BsmUnfinSF : Foundation :
Appliances : BsmLowSF : Roof Shape :
Dishwasher : Bldg SqFt : Roof Matl :
Hood Fan : 1stFlrSqFt : InteriorMat :
Deck : UpperFlSF : Paving Matl :
Garage Type : Porch SqFt : Const Type :
Garage SF : Attic SqFt : Ext Finish :
Deck SqFt :

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

= METROSCAN PROPERTY PROFILE =
Washington (OR)

=====

OWNERSHIP INFORMATION

=====

Reference Parcel #:	2S134B0	00200	
Parcel Number :	R0558603		RTSQ:01W - 02S - 34 - NW
Owner :	Tigard Sand & Gravel Co Inc		
CoOwner :			
Site Address :	*no Site Address*		
Mail Address :	1220 SE 190th Ave Portland Or 97233		
Telephone :	Owner:		Tenant:

=====

SALES AND LOAN INFORMATION

=====

Transferred :		Loan Amount :	
Document # :	7470828	Lender :	
Sale Price :		Loan Type :	
Deed Type :		Interest Rate :	
% Owned :		Vesting Type :	

=====

ASSESSMENT AND TAX INFORMATION

=====

MktLand :	\$122,750	Exempt Amount :	
MktStructure:		Exempt Type :	
MktOther :		% Improved :	
MktTotal :	\$122,750	Levy Code :	08813
07-08 Taxes :	\$1,464.88	School Dist :	Sherwood
Assessed Tot:	\$97,260		

=====

PROPERTY DESCRIPTION

=====

Map Grid :		Class Code :	
Census :	Tract:	Block :	
NbrhdCd :	Yrin	MillRate :	15.0613
Sub/Plat :			
Land Use :	3002 Vacant, Industrial		
Legal :	ACRES 12.59		

=====

PROPERTY CHARACTERISTICS

=====

Bedrooms :	Lot Acres :	12.59	Year Built :	
Bathrooms :	Lot SqFt :	548,420	EffYearBlt :	
Heat Method :	BsmFin SF :		Floor Cover :	
Pool :	BsmUnfinSF :		Foundation :	
Appliances :	BsmLowSF :		Roof Shape :	
Dishwasher :	Bldg SqFt :		Roof Matl :	
Hood Fan :	1stFlrSqFt :		InteriorMat :	
Deck :	UpperFlSF :		Paving Matl :	
Garage Type :	Porch SqFt :		Const Type :	
Garage SF :	Attic SqFt :		Ext Finish :	
	Deck SqFt :			

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

= METROSCAN PROPERTY PROFILE =
Washington (OR)

=====
OWNERSHIP INFORMATION
=====

Reference Parcel #:2S134B0 00800
Parcel Number :R0558667 RTSQ:01W - 02S - 34 - NW
Owner :Tigard Sand & Gravel Co Inc
CoOwner :
Site Address :*no Site Address*
Mail Address :1220 SE 190th Ave Portland Or 97233
Telephone :Owner: Tenant:

=====
SALES AND LOAN INFORMATION
=====

Transferred : Loan Amount :
Document # : Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate :
% Owned : Vesting Type :

=====
ASSESSMENT AND TAX INFORMATION
=====

MktLand :\$151,420 Exempt Amount :
MktStructure: Exempt Type :
MktOther : % Improved :
MktTotal :\$151,420 Levy Code :08813
07-08 Taxes :\$1,806.90 School Dist :Sherwood
Assessed Tot:\$119,970

=====
PROPERTY DESCRIPTION
=====

Map Grid : Class Code :
Census :Tract: Block :
NbrhdCd :Yrin MillRate :15.0613
Sub/Plat :
Land Use :3002 Vacant,Industrial
Legal :ACRES 15.53

=====
PROPERTY CHARACTERISTICS
=====

Bedrooms : Lot Acres :15.53 Year Built :
Bathrooms : Lot SqFt :676,486 EffYearBlt :
Heat Method : BsmFin SF : Floor Cover :
Pool : BsmUnfinSF : Foundation :
Appliances : BsmLowSF : Roof Shape :
Dishwasher : Bldg SqFt : Roof Matl :
Hood Fan : 1stFlrSqFt : InteriorMatl :
Deck : UpperFlSF : Paving Matl :
Garage Type : Porch SqFt : Const Type :
Garage SF : Attic SqFt : Ext Finish :
Deck SqFt :

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

FORM NO. 611—REPLACES 5893

OFFICIAL RECORDS FOR OR. PORTLAND, ORE.

613 NOV 602 TRV 100

KNOW ALL MEN BY THESE PRESENTS, That J. A. ROBBINS and ANNA MAE ROBBINS, husband and wife,

hereinafter called the grantor, in consideration of TEN (\$10) Dollars, and other valuable consideration to grantor paid by TIGARD SAND & GRAVEL CO., INC., a corporation, 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 appertaining, situated in the County of Washington and State of Oregon, described as follows, to-wit: Parcel 1: The northwest quarter of the northeast quarter of the southwest quarter of section 34, township 2 south of range 1 west of the Willamette Meridian, Washington County, Oregon, save and except that part thereof lying south and west of the D. C. Harron Road, excepting therefrom the right of way of the United States of America (Bonneville Power).

Parcel 2: Lot M, Tonquin Annex, excepting therefrom the right of way of the United States of America (Bonneville Power), all in Washington County, Oregon.

Parcel 3: Lot K, Tonquin Annex, in Washington County, Oregon.

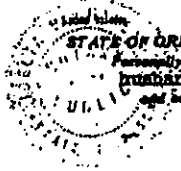
Parcel 4: Lot F, Tonquin Annex, in Washington County, Oregon.

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 lawfully raised in his simple of the above granted premises, free from all encumbrances except those noted, easements to NEA affecting Parcel 1, rec. 2-3-43, Wash. Co. Deed Rec., Pt. 214, p. 482, and affecting Parcel 2, rec. 7-23-47, Wash. Co. Deed Rec., Pt. 207, p. 659; transmission line easement to NEA rec. 1-24-57, Wash. Co. Deed Rec., Pt. 214, p. 482, and transmission line easement to NEA Co., rec. 4-18-43, Wash. Co. Deed Rec., Pt. 214, p. 482, 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 whatsoever.

In executing this deed and where the contract so requires, the singular includes the plural. WITNESS grantor's hand and seal this 11th day of July, 1966.

J. Robbins (REAL)
Anna Mae Robbins (REAL)



STATE OF OREGON, County of Multnomah, ss. July 12, 1966. Personally appeared the above named J. A. ROBBINS and ANNA MAE ROBBINS, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon
My commission expires Feb. 6, 1970

WARRANTY DEED
J. A. ROBBINS, et ux

TO
TIGARD SAND & GRAVEL CO., INC.

COVEN RECORDING RETURN TO
Kobin & Meyer
314 Oregon Bank Bldg.
Portland, Oregon
97204

REC 747 REG 828

INDEXED
STATE OF OREGON
County of Washington

Notary Public for Oregon
My commission expires Feb. 6, 1970

STATE OF OREGON
JAN 21 9 16 AM '66

Handwritten signature and notary seal area.

613
RECORDED

= METROSCAN PROPERTY PROFILE =
Washington (OR)

=====
OWNERSHIP INFORMATION
=====

Reference Parcel #: 2S134B0 00100
Parcel Number : R0558596 RTSQ:01W - 02S - 34 - NW
Owner : Tigard Sand & Gravel Co Inc
CoOwner :
Site Address : *no Site Address*
Mail Address : 1220 SE 190th Ave Portland Or 97233
Telephone : Owner: Tenant:

=====
SALES AND LOAN INFORMATION
=====

Transferred : Loan Amount :
Document # : 5680262 Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate :
% Owned : Vesting Type :

=====
ASSESSMENT AND TAX INFORMATION
=====

MktLand : \$572,130 Exempt Amount :
MktStructure: Exempt Type :
MktOther : % Improved :
MktTotal : \$572,130 Levy Code : 08813
07-08 Taxes : \$6,827.31 School Dist : Sherwood
Assessed Tot: \$453,300

=====
PROPERTY DESCRIPTION
=====

Map Grid : Class Code :
Census : Tract: Block :
NbrhdCd : Yrin MillRate : 15.0613
Sub/Plat :
Land Use : 3002 Vacant, Industrial
Legal : ACRES 58.68, CODE SPLIT

=====
PROPERTY CHARACTERISTICS
=====

Bedrooms : Lot Acres : 58.68 Year Built :
Bathrooms : Lot SqFt : 2,556,100 EffYearBlt :
Heat Method : BsmFin SF : Floor Cover :
Pool : BsmUnfinSF : Foundation :
Appliances : BsmLowSF : Roof Shape :
Dishwasher : Bldg SqFt : Roof Matl :
Hood Fan : 1stFlrSqFt : InteriorMat :
Deck : UpperFlSF : Paving Matl :
Garage Type : Porch SqFt : Const Type :
Garage SF : Attic SqFt : Ext Finish :
Deck SqFt :

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

= METROSCAN PROPERTY PROFILE =
Washington (OR)

=====
OWNERSHIP INFORMATION
=====

Reference Parcel #: 2S134B0 00100
Parcel Number : R1492236 RTSQ:01W - 02S - 34 - NW
Owner : Tigard Sand & Gravel Co Inc
CoOwner :
Site Address : *no Site Address*
Mail Address : 1220 SE 190th Ave Portland Or 97233
Telephone : Owner: Tenant:

=====
SALES AND LOAN INFORMATION
=====

Transferred : Loan Amount :
Document # : Lender :
Sale Price : Loan Type :
Deed Type : Interest Rate :
% Owned : Vesting Type :

=====
ASSESSMENT AND TAX INFORMATION
=====

MktLand : \$30,030 Exempt Amount :
MktStructure: Exempt Type :
MktOther : % Improved :
MktTotal : \$30,030 Levy Code : 08811
07-08 Taxes : \$390.13 School Dist : Sherwood
Assessed Tot: \$23,790

=====
PROPERTY DESCRIPTION
=====

Map Grid : Class Code :
Census : Tract: Block :
NbrhdCd : Yrin MillRate : 16.3989
Sub/Plat :
Land Use : 3002 Vacant, Industrial
Legal : ACRES 3.08, CODE SPLIT

=====
PROPERTY CHARACTERISTICS
=====

Bedrooms : Lot Acres : 3.08 Year Built :
Bathrooms : Lot SqFt : 134,164 EffYearBlt :
Heat Method : BsmFin SF : Floor Cover :
Pool : BsmUnfinSF : Foundation :
Appliances : BsmLowSF : Roof Shape :
Dishwasher : Bldg SqFt : Roof Matl :
Hood Fan : 1stFlrSqFt : InteriorMat :
Deck : UpperFlSF : Paving Matl :
Garage Type : Porch SqFt : Const Type :
Garage SF : Attic SqFt : Ext Finish :
Deck SqFt :

Information compiled from various sources. Real Estate Solutions makes no representations or warranties as to the accuracy or completeness of information contained in this report.

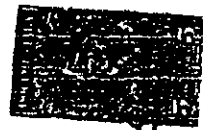
FORM No. 701 - WARRANTY DEED - CORPORATION

12131061

5669

KNOW ALL MEN BY THESE PRESENTS, that DOMDAY, INC. a corporation duly organized and existing under the laws of the State of OREGON, hereinafter called grantor, in consideration of TEN AND NO/100 Dollars to grantor paid, does hereby grant, bargain, sell and convey unto TIGARD SAND & GRAVEL CO., INC. hereinafter called grantees and grantees's heirs, successors and assigns, that certain real property with the tenements, hereditaments and appurtenances therunto belonging or appertaining, situated in the County of WASHINGTON and State of Oregon, described as follows, to-wit:

Tracts C, D, E and G, and all that portion of Tract B, TOMQUIN ANNEX, except that portion dedicated to The Public by A. S. Pattullo et al, by deed recorded February 8, 1932, in Book 148, page 346, Deed Records, Washington County, Oregon.



To Have and to Hold the above described and granted premises unto the said grantees and grantees's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantees and grantees's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances EXCEPT ENCUMBRANCE GRANTED TO UNITED STATES OF AMERICA RECORDED APRIL 21, 1932 IN BOOK 148, PAGE 391, Deed Records, and easement to Portland General Electric Co. recorded April 29, 1963, in Book 486, page 7, Deed Records of Washington County, Oregon

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.

Done by order of the grantor's board of directors, with its corporate seal attached, this 7 day of September, 1965.

DOMDAY, INC.

(CORPORATE SEAL)

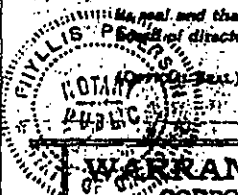
By Charles E. Day President
By Rae Dean Secretary

STATE OF OREGON, County of Multnomah) ss. September 7, 1965.

Personally appeared Frank E. Day and Carlton E. Baker who, being sworn, each for himself and not one for the other, stated that the former is the President and that the latter is the Secretary of grantor corporation and that the seal affixed hereto is

the seal of said corporation and that this deed was voluntarily signed and sealed in behalf of the corporation by authority of its Board of directors.

Before me: Phyllis Peterson
Notary Public for Oregon.
My commission expires 11/19/68



WARRANTY DEED CORPORATION

DOMDAY, INC.
TO
TIGARD SAND & GRAVEL
CO., INC.

AFTER RECORDING RETURN TO

KOBIN & MEYER
ATTORNEYS AT LAW
314 OREGON BANK BLDG.
PORTLAND 4, OREGON
CAPitol 3-1108

VERIFY THE TYPE OF SEAL, INDENTATION FOR RECORDING LABEL IN COUNTY WHERE USED.

STATE OF OREGON
County of Washington

INDEXED
RECORDED
SEP 9 1965

Witness my hand and seal this 7 day of September, 1965.
Phyllis Peterson
Notary Public for Oregon

SEP 9 3 15 PM '65

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38.30

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761

BOOK 566 PAGE 282

**ATTACHMENT B
PROOF OF OWNERSHIP**

The following title reports and deed records demonstrate Claimant's current ownership as well as the date Claimant acquired the property.

**ATTACHMENT C
WRITTEN NARRATIVE**

Claimant owns eight lots located within the urban growth boundary.

Claimant acquired Tax Lot 900 in Township 2 South, Range 1 West, Section 27C on December 30, 1965. At the time Claimant acquired the property, it was zoned Suburban Residential ("S-R") under Washington County's Zoning Ordinance and single-family residential use was allowed on lots as small as 20,000 square feet.

Claimant acquired Tax Lots 100 in Township 2 South, Range 1 West, Section 34B on September 7, 1965. At the time Claimant acquired the property, both lots were zoned Residential District R-20 ("R-20"). As of the date of acquisition Tax Lots 100 could have been developed for single-family residential use on lots as small as 20,000 square feet.

Claimant acquired Tax Lots 300 and 400 in Township 2 South, Range 1 West, Section 27C on November 19, 1973. At the time Claimant acquired the property, both tax lots were zoned S-R, which allowed for single-family residential use on lots as small as 20,000 square feet.

Claimant acquired Tax Lot 200 and 800 in Township 2 South, Range 1 West, Section 34 B and Tax Lot 500 in Township 2 South, Range 1 West, Section 34 C on July 12, 1966. At the time Claimant acquired the property, all three tax lots were zoned R-20. As of the date of acquisition, Tax Lots 200, 800, and 500 could have been developed for single-family residential use on lots as small as 20,000 square feet.

Now, the all Claimant's urban property is zoned FD-20 under CDC Article III, Chapter 308, "Future Development 20 Acre District," which prohibits single-family residential use. FD-20 applies to the unincorporated urban lands added to the urban growth boundary by Metro through a Major or Legislative Amendment process after 1998. FD-20 allows limited interim uses on the property until the urban comprehensive planning for future urban development of these areas is complete. CDC Article III, Chapter 308.

Under Measure 49 § 9, Claimant seeks a waiver of the restrictive land use regulations, including the FD-20 to divide the urban property to allow for home sites as would have been allowed when Claimant acquired the properties in 1965, 1966 and 1973 to the extent allowed under Measure 49.