

W. B. b.

## AGENDA COVER MEMO



**DATE:** July 12, 2006

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** BILL VANVACTOR, COUNTY ADMINISTRATOR  
KENT HOWE, PLANNING DIRECTOR

**RE:** In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA 06-5268, Cook)

### I. MOTION

Move to approve the Measure 37 Claim and adopt the order attached to this memo.

### II. ISSUE OR PROBLEM

Shall the Board of County Commissioners compensate an applicant under Ballot Measure 37 and LC 2.700 through 2.770 for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of restrictive land use regulations or modify, remove, or discontinue application of those land use regulations to the subject property to allow Jeffry and Susan Cook to use the property as could have been allowed at the time they acquired the property?

### III. DISCUSSION

#### A. Background

**Applicant:** Jeffry and Susan Cook

**Current Owner:** Jeffry and Susan Cook

**Agent:** Steve Cornacchia

**Map and tax lots:** 16-03-31-40 #1600 and #1700

**Acreage:** Approximately 14 acres

**Current Zoning:** E30 (Exclusive Farm Use)

**Date Current Owners Acquired an Interest in the Property:** May 21, 1974 (WD 8060875 and Memorandum of Agreement 7427980).

**Date claim submitted:** February 16, 2006

**Land Use Regulations in Effect at Date of Acquisition:** Unzoned.

**County land use regulation which restricts the use and reduces the fair market value of claimant's property:** Minimum lot size and dwelling restrictions of the E30 (Exclusive Farm Use) zone.

## **B. Specific Relief Sought:**

On February 16, 2006, Steve Cornacchia submitted a Measure 37 Claim on behalf of Jeffrey and Susan Cook. The applicant has requested compensation of \$1,050,000 or a waiver of the E30 zone regulations that prohibit the division of the property into two-acre lots and development of single family dwellings.

## **C. Lane Code Submittal Requirements**

The applicant has paid the processing fee and submitted evidence in support of this claim. This evidence includes a title report, appraisal and deeds.

## **D. Analysis**

The property is zoned E30 and contains approximately 14 acres. The applicant wishes to subdivide the property into two-acre lots and place a dwelling on each lot. The current owners acquired an interest in the property on May 21, 1974 (Warranty Deed 8060875). On that date, the property was unzoned. Currently, the property is zoned E30. This zone requires 30 acres for new lots and a special use permit for a new dwelling. Because of these restrictions, the current owners are prevented from developing the property as could have been allowed when they acquired an interest in the property. According to the appraisal, the amount of alleged compensation is \$1,050,000.

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and
2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and
3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

### **Restrictive Regulations**

According to the title report, the current owners are Jeffrey and Susan Cook. They acquired an interest in the property on May 21, 1974, as evidenced by Warranty Deed 8060875, recorded on December 2, 1980. In 1974, the property was unzoned. Currently, the property is zoned E30. This zone requires 30 acres for new lots and a special use permit for a new dwelling. Because of these restrictions, the current owners are prevented from developing the property as could have been allowed when they acquired an interest in the property.

### **Reduction in Fair Market Value**

The applicant has submitted an appraisal by a certified real estate appraiser. Based on the appraisal, the existing 14 acres is worth \$280,000. If the property was developed with single family dwellings on two-acre lots, the value would be \$1,330,000. The appraisal does not clearly demonstrate a connection between the alleged reduction in fair market value and the imposition of a land use regulation. However, the current owners acquired an interest in the property when it was unzoned. Because of this, it is reasonable to assume the minimum lot size and dwelling restrictions have had some

impact to the fair market value.

#### **Exempt Regulations**

The E30 limitation on new dwellings and the minimum parcel size of 30 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710.

#### **E. Conclusion/County Administrator Recommendation**

It appears this is a valid claim if the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

#### **IV. ALTERNATIVES/OPTIONS**

The Board has these options:

1. Determine the application appears valid and adopt the order attached to this report.
2. Require more information regarding the reduction in value.
3. Conclude the application is not a valid claim and direct the issuance of a final written decision by the County Administrator denying the Claim.

#### **V. RECOMMENDATION**

If the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation, the County Administrator recommends alternative #1.

#### **VI. ATTACHMENTS**

The entire submittal is not included in these attachments. The entire submittal is located in the County Commissioner's office in a binder labeled "Cook Measure 37 Claim, PA 06-5268".

Order to approve the Measure 37 claim of Jeffry and Susan Cook.

Vicinity map.

Written claim submitted February 16, 2006.

Title Report.

Memorandum of Agreement dated May 21, 1974.

Warranty Deed 8060875 dated May 21, 1974.

Appraisal report dated February 10, 2006.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,  
OREGON**

**ORDER No.** ) IN THE MATTER OF CONSIDERING A BALLOT  
                  ) MEASURE 37 CLAIM AND DECIDING  
                  ) WHETHER TO MODIFY, REMOVE OR NOT  
                  ) APPLY RESTRICTIVE LAND USE  
                  ) REGULATIONS IN LIEU OF PROVIDING JUST  
                  ) COMPENSATION (Jeffry and Susan Cook/  
                  ) PA06-5268).

**WHEREAS**, the voters of the State of Oregon passed Ballot Measure 37 on November 2, 2004, which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowners if a government land use regulation restricts the use of private real property and has the effect of reducing the property value; and

**WHEREAS**, the Board of County Commissioners of Lane County enacted Ordinance No. 18-04 on December 1, 2004, to establish a real property compensation claim application process in LC 2.700 through 2.770 for Ballot Measure 37 claims; and

**WHEREAS**, the County Administrator has reviewed an application for a Measure 37 claim submitted by Jeffry and Susan Cook (PA06-5268), the owners of real property described in the records of the Lane County Assessor as map 16-03-31-40, tax lot 1600 and 1700, consisting of approximately 14 acres in Lane County, Oregon; and

**WHEREAS**, the County Administrator has determined that the application appears to meet all of the criteria of LC 2.740(1)(a)-(d), appears to be eligible for just compensation and appears to require modification, removal or not applying the restrictive land use regulations in lieu of payment of just compensation and has referred the application to the Board for public hearing and confirmation that the application qualifies for further action under Measure 37 and LC 2.700 through 2.770; and

**WHEREAS**, the County Administrator has determined under LC 2.740(4) that modification, removal or not applying the restrictive land use regulation is necessary to avoid owners entitlement to just compensation under Ballot Measure 37 and made that recommendation to the Board; and

**WHEREAS**, the Board has reviewed the evidence and confirmed the application appears to qualify for compensation under Measure 37 but Lane County has not appropriated funds for compensation for Measure 37 claims and has no funds available for this purpose; and

**WHEREAS**, on July 12, 2006, the Board conducted a public hearing on the Measure 37 claim (PA06-5268) of Jeffry and Susan Cook and has now determined that the restrictive E30 (Exclusive Farm Use) zone dwelling and land division requirements of LC 16.212 were enforced and made applicable to prevent Jeffry and Susan Cook from developing the property as might have been allowed at the time it was acquired on May 21, 1974, and that the public benefit from application of the current E30 restrictions on new dwellings to the applicants' property is outweighed by the public burden of paying just compensation; and

**IT IS HEREBY FURTHER ORDERED** that this action making certain Lane Code provisions inapplicable to use of the property by Jeffrey and Susan Cook does not constitute a waiver or modification of state land use regulations and does not authorize immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml> ) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

**IT IS HEREBY FURTHER ORDERED** that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to divide or build dwellings can be transferred to another owners. If the ruling of the Marion County Circuit Court in *MacPherson v. Dept. of Administrative Services*, (Marion County Circ. Ct. Case No. 00C15769, October 14, 2005) or any other court decision involving Ballot Measure 37 becomes final and that decision or any subsequent court decision has application to Lane County in a manner that affects the authority of this Board to grant relief under Ballot Measure 37 and LC 2.700 through 2.770 then the validity and effectiveness of this Order shall be governed by LC 2.770 and the ruling of the court.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Bill Dwyer, Chair  
Lane County Board of County Commissioners

APPROVED AS TO FORM

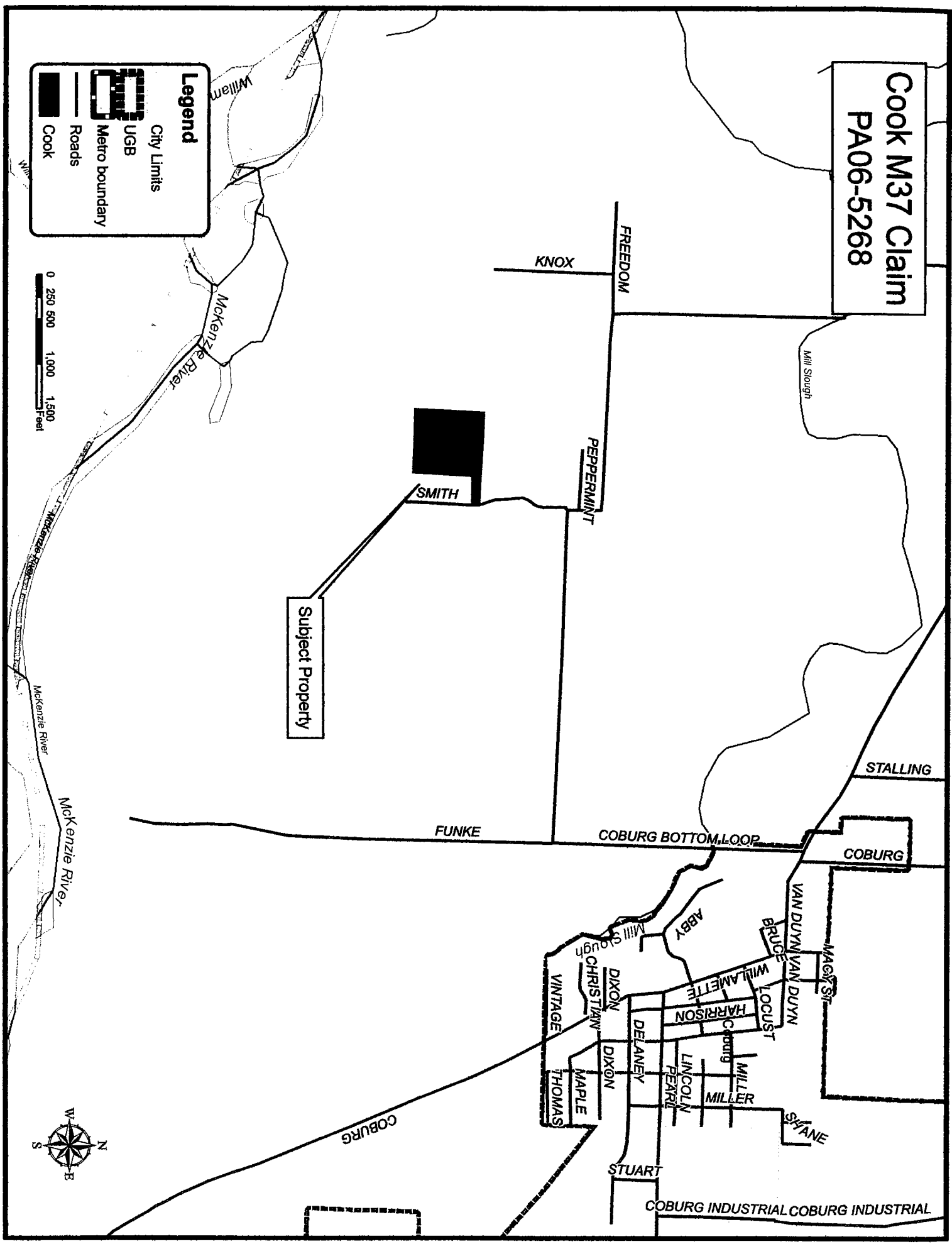
Date 7-5-2006 Lane County

Stephen J. Walsh  
OFFICE OF LEGAL COUNSEL

Cook M37 Claim  
PA06-5268

**Legend**

- City Limits
- UGB
- Metro boundary
- Roads
- Cook



Measure 37 Claim Number: M37-PA065268

**Application for Claims Under LC 2.700 through 2.770**

Due to Regulatory Reduction of Property Value Under Provisions Added to ORS Chapter 197 by BM37

Note: This completed form together with the referenced supporting documentation and application fee must be submitted to the Lane County Land Management Division, 125 East 8th Avenue, Eugene, Or., 97401 for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), to be considered for compensation under LC 2.700 through 2.770. In all cases, the applicant has the burden of demonstrating, with competent evidence, that all applicable criteria are met and the applicant would be entitled to compensation if the land use regulation continues to apply. Use additional paper, if necessary.

**1. Applicant/ Agent**

<u>Jeffry and Susan Cook</u>	<u>[REDACTED]</u>	
Applicant Name (Please Print)	Mailing Address	Phone
<u>Steve Cornacchia</u>	<u>180 E. 11th Ave.; Eugene, OR 97401</u>	<u>(541) 686-8511</u>
Agent Name (Please Print)	Mailing Address	Phone

**2. Property Owner**

Please provide the Name, Mailing Address and telephone number of all property owners of record holding interest in the property that is the subject of this application. Include a complete listing of all lien holders, trustees, renters, lessees or anyone with an interest in the property and describe the ownership interest.

<u>Jeffry and Susan Cook</u>	<u>[REDACTED]</u>	
Property Owner Name (Please Print)	Mailing Address	Phone
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
Property Owner Name (Please Print)	Mailing Address	Phone

**3. Legal Description**

Please provide an accurate legal description, tax account number(s), map, street address and location of all private real properties that are the subject of this application.

Assessor Map & Tax Lot 16-03-31-40 TLS 1600 and 1700

Street Address 90852 Smith Lane, Eugene, OR 97408      Legal Description Attached X

**4. Identification of Imposed Land Use Regulation**

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.740(1).

Ordinance No. 613 (4-27-77); Ordinance 884 (2-29-84); LC 16.212(5)-(7) and (9) (6-2-04)

See Section 3.1.e. for further discussion

**5. Title Report**

Please attach a Preliminary Title Report showing title history and continuous ownership traced to the earliest family member ownership, the date of current owner(s) acquisition and all current interests of record for the subject property, issued within 30 days of the application submittal. Provide copies of relevant deeds.

**6. Appraisal/Regulatory Effect**

Please provide one original, signed appraisal prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon addressing the requirements of provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in fair market value by showing the difference in the fair market value of the property before and after the application of the challenged regulations as of the date the owner makes written demand for compensation. Include all of the supporting methodology, assumptions and calculations affecting the appraisal.

Attached as Exhibit J to narrative application.

**7. Leases, Covenants, Conditions and Restrictions**

Please provide copies of any leases or covenants, conditions and restrictions applicable to the subject property.

n/a

**8. Identification of Relief Sought**

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

Reduction in market value: \$ \_\_\_\_\_ (see Section 3.1.h. to narrative

application.) Residential use on parcels less than 30 acres in size.

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

*[Handwritten Signature]*  
Susan K Cook

Owner(s) Signature

1/5/2006  
Date

*[Handwritten Signature]*  
HERSHNER HUNTER

Applicant/Agent Signature

2/16/06  
Date

The following contacts are provided to assist you in finding the necessary information for this application.

For zoning and land use information, please contact the Land Management Division at 682-3577.

*This phone contact is a message line. Please leave a message and a Planner will return your call.*

For deeds and records information, please contact Lane County Deeds and Records at 682-3654.



## **1. INTRODUCTION.**

The applicants, Jeffry and Susan Cook, claim that Lane County's enforcement of land use regulations that restrict the use of their property has reduced the fair market value of their property. The applicants are requesting, pursuant to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and Lane Code 2.700, that Lane County pay them just compensation for the reduction in the fair market value of their property resulting from those restrictions on its use. This application constitutes written demand pursuant to Section (4) of Ballot Measure 37 (2004).

In lieu of such payment of just compensation, the applicants request that Lane County waive the offending regulations, as provided hereinbelow, that prevent the applicants from subdividing the subject property to buildable lots of less than thirty acres in size.

The applicants obtained their interest in the subject property on May 21, 1974, and have owned the subject property continuously since that time. The applicants are the sole owners of the subject property. Lane County did not have an adopted zoning ordinance on May 21, 1974, and the subject property was not zoned, or otherwise regulated relative to use, by Lane County on that date.

The property is zoned Exclusive Farm Use 30 (E30). That zoning, as applied by LC 16.212, will not permit land divisions below 30 acres in size for the resulting parcels and will not permit the placement of dwellings on the two subject parcels except under very limited circumstances.

## **2. BACKGROUND INFORMATION.**

### **2.1 General Site Description.**

The property subject to this application consists of two adjacent parcels, one approximately 4.65 acres in size and the other approximately 9.44 acres in size. The subject property is located west of the City of Coburg at 90852 Smith Lane, Eugene, Oregon 97408.

The subject property is described as Tax Lots 1600 and 1700 of Lane County Assessor's Map No. 16-03-31-40.

Tax Lot 1700 is developed with a residence and accessory structures and Tax Lot 1600 is undeveloped and vacant.

The subject property receives the following public services: Eugene School District No. 4J (schools); Eugene Water and Electric Board (electrical power); Coburg Rural Fire Protection District (fire and ambulance); Qwest (telephone); LTD (bus service); Lane County Sheriff's Department and Oregon State Police.

### **2.2 List of Exhibits:**

Exhibit A - Assessor's Map No. 16-03-31-40

Exhibit B - Legal Description

- Exhibit C - Lane County Application Form
- Exhibit D - Preliminary Title Report with Conveyance Documents
- Exhibit E - Lane County Official Zoning Map Plot 347
- Exhibit F - Ordinance No. 884
- Exhibit G - Ordinance No. 9-73
- Exhibit H - Ordinance No. 12-73
- Exhibit I - Ordinance No. 613
- Exhibit J - Appraisal Reports prepared by Craig E. McKern, Certified Real Estate Appraiser

3. **APPLICABLE CRITERIA.** (Lane Code 2.700 – Real Property Compensation/Regulation Application Process)

3.1 **Lane Code 2.720 Application for Claim**

Lane Code 2.720 requires that the applicants be the present owners of the property that is the subject of the claim at the time the claim is submitted. The applicants are the present and sole owners of the subject property.

**Lane Code 2.720 also contains the required items for a competed application as follows:**

- a. **A completed application form;**

**Response:**

A completed application form is attached hereto as Exhibit C.

- b. **The name, mailing address, and phone number of the property owner filing the application, and of each of the other owners of the subject property and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each, if any, along with the signature of each of the other owners indicating consent to the application claim;**

**Response:**

The applicants are the sole owners of the property, free and clear of all encumbrances and interests of record other than those of the applicants. The applicants' names, mailing address and phone number are provided in the application form attached hereto. The applicants have signed the application form attached hereto.

- c. **A legal description and tax lot number of the subject property as well as a street address for the property (if any);**

**Response:**

A legal description of the subject property is attached hereto as Exhibit B. The Lane County Assessor's Map No. for the subject property is 16-03-31-40. The street addresses of the subject property is 90852 Smith Lane, Eugene, Oregon, 97408.

**d. A title report issued within 30 days of the application's submittal, including title history and including a statement of the date the applicant acquired ownership of the subject property and showing the ownership interests of all owners of the property or, as an alternative to the title report, a copy of the deed(s) granting all existing ownership interests to the owner(s) of the subject property signing the petition;**

**Response:**

On May 21, 1974 the applicants entered into a Land Sale Contract, as Vendee, with Carmen Edith Reynolds, as Vendor. Carmen Reynolds was the mother of applicant Susan Cook. Upon the death of Carmen Reynolds the vendor's interest in the Land Sale Contract was assigned to seven family members. Upon payment of the contract price the applicants received title to the property by Quit Claim Deeds executed by all the vendors of the Land Sale Contract. Copies of the Memorandum of Agreement (evidencing the Land Sale Contract), the assignment of the vendor's interest and the Quit Claim Deeds are all included in a First American Title Insurance Company preliminary title report attached as Exhibit D.

**e. A statement specifically identifying the section of Lane Code or other land use regulation that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property, including the date the regulation was adopted, first enforced or applied to the subject property;**

**Response:**

The subject property is zoned Exclusive Farm Use 30 Acre Minimum (E30) as depicted on Lane County Official Zoning Map Plot 347, adopted by Lane County as part of Ordinance 884 on February 29, 1984. A copy of Plot 347 is attached as Exhibit E and a copy of Ordinance 884 is attached as Exhibit F. In addition to Ordinance 884, the primary land use regulations that restrict the use of the subject property are Lane Code 16.212(3)-(7) which restrict the residential use of the subject property and Lane Code 16.212(9) which requires a minimum area requirement of thirty acres for the creation of new lots or parcels in the Exclusive Farm Use Zone on property designated as E30 on Lane County Zoning Maps. Those Lane Code provisions and Zoning Map Plot 347 prevent the applicants from subdividing their property into residentially buildable parcels less than 30 acres in size as was allowed by Lane County regulations (or the lack thereof) prior to the county's adoption of Ordinance 884 and the current code provisions.

On August 15, 1973, the Lane County Board of Commissioners enacted Ordinance No. 9-73 that adopted the unzoned area development permit requirements of LC 9.700-9.765. A copy of Ordinance No. 9-73 is attached as Exhibit G. On October 3, 1973, the Lane County Board of Commissioners enacted Ordinance No. 12-73 that adopted a minor amendment to the unzoned area development permit requirements of LC 9.700-9.765. A copy of Ordinance No. 12-73 is attached as Exhibit H. The subject property was not zoned on October 3, 1973. LC 9.170

required development permits for “more than five (5) dwelling units per lot or parcel or contiguous lots or parcels under the same ownership.”

On April 27, 1977, the Lane County Board of Commissioners enacted Ordinance No. 613 that zoned the subject property as Exclusive Farm Use, EFU. A copy of Ordinance No. 613 is attached as Exhibit I.

On February 29, 1984, Lane County adopted Ordinance 884 which further restricted the applicants’ use of their property subsequent to their acquisition of it by rezoning it as Exclusive Farm Use, E30, which it remains today. A copy of that ordinance is attached as Exhibit G.

If the aforementioned Lane County regulations did not exist, or were consistent with provisions of Lane County regulations preceding May 21, 1974,, the value of the applicants’ property would be considerably higher if divided into two-acre or larger parcels for residential use rather than remaining in its current configuration with the aforementioned use and acreage restrictions in place.

In addition to Ordinance 884 and LC 16.212 (3)-(7),(9) and (10), the following Lane County regulations restrict the use of the subject property by the applicant:

- LC 10.100-10, 30 and 40
- LC 13.050(1), (2),(5), and (12)
- LC 15.045(1)
- LC 15.070
- LC 15.080
- LC 15.137
- LC 15.138

f. **A copy of a written appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, addressing the requirements of the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after the application of each of the challenged regulations, individually, and after the application of all of the challenged regulations, cumulatively;**

**Response:**

The applicant retained the services of Craig E. McKern, Certified Residential Real Estate Appraiser, to prepare written appraisals of the subject property indicating the difference in the fair market value of it as currently configured and as if configured into two-acre parcels. Mr. McKern’s appraisals are attached hereto as Exhibit I.

g. **A written statement addressing the criteria listed in LC 2.740(1)(a) through (d);**

**LC 2.740(1)(a) through (d) provides the following criteria:**

**(a) The county has either adopted or enforced a land use regulation that restricts the use of private property or any interest therein:**

**Response:**

The subject property is zoned Exclusive Farm Use 30 Acre Minimum (E30) as depicted on Lane County Official Zoning Map Plot 347, adopted by Lane County as part of Ordinance 884 on February 29, 1984. In addition to Ordinance 884, the primary land use regulations that restrict the use of the subject property are Lane Code 16.212(3)-(7) which restrict the residential use of the subject property and Lane Code 16.212(9) which requires a minimum area requirement of thirty acres for the creation of new lots or parcels in the Exclusive Farm Use Zone on property designated as E30 on Lane County Zoning Maps. (See discussion above in Section 3.1.e.)

**(b) The restriction on use has the effect of reducing the fair market value of the property or any interest therein, upon which the restriction is imposed;**

**Response:**

See discussion above in sections 3.1(e) and (f) and below in section 3.1(h).

**(c) The challenged land use regulation was adopted, enforced or applied after the current owner of the property (the applicant) became the owner, and**

**Response:**

See discussion above in sections 3.1(d) and (e).

**(d) The challenged regulation is not an exempt regulation as defined in LC 2.710.**

**Response:**

Ordinance 884, Lane Code 16.212(3)-(7) and (9) and the Lane Code provisions listed in the Response to section 3.1(e) above are land use regulations as defined by provisions added to ORS Chapter 197 by Ballot Measure 37. They do not restrict or prohibit public nuisances, are not public health and safety protection regulations, are not required to comply with federal law, do not relate to the use of the property for pornography or nude dancing and were not enacted prior to the date the applicants acquired the property.

**h. A statement by the applicant specifying the amount of the claim, and the fair market value of the property before and after application of the challenged land use regulation(s); and**

**Response:**

The applicant claims from Lane County the sum of \$1,050,000, which sum represents the reduction in market value of the subject property resulting from Lane County's enforcement of the aforementioned regulations that restrict the residential use of the property and which prohibit land divisions to parcels greater than 30 acres in size. The claimed sum is the total for both of the subject parcels, Tax Lots 1600 and 1700 of Lane County Assessor's Map No. 16-03-31-40.

According to Mr. McKern's appraisal, the total fair market value of both parcels that constitute the subject property before the application of the aforementioned challenged land use regulations is \$1,330,000. According to Mr. McKern's appraisal, the fair market value of the subject property after the application of the aforementioned challenged land use regulation is \$280,000. The reduction in fair market value of the subject property resulting from Lane County's restrictions on its use totals \$1,050,000, the amount of the claim herein.

**i. Copies of any leases or covenants, conditions and restrictions applicable to the subject property if any exist that impose restrictions on the use of the property. Unless waived by the County Administrator, an application shall also include an application fee, in the amount established by Order of the Board, to at least partially cover the County costs of processing the application, to the extent an application fee may be required as a condition of acceptance of filing an application for a claim under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004). The county shall refund the application fee if it is determined by the County or by a court that the applicant is entitled to compensation under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).**

**Response:**

The subject property is free and clear of any encumbrances that would restrict the use of it.

**4. CONCLUSION.**

The applicants have demonstrated that Lane County's enforcement of Ordinance 884 and provisions of LC 16.212 restricts the use of the subject property to agricultural use on 30-acre minimum parcel sizes and that the restriction reduces the fair market value of the property from what it would be if residential use on parcels less than thirty acres in size was allowed. The applicants have demonstrated compliance and consistency with the provisions added to ORS Chapter 197 by Ballot Measure 37 and LC 2.700. Accordingly, the applicants' claim for just compensation for the reduction in the fair market value of their property as a result of the restriction should be paid by Lane County. In lieu of such payment of just compensation, Lane County should waive the offending regulations as provided above that prevent the applicants from subdividing the subject property to into buildable residential lots of less than thirty acres in size.

EXHIBIT D



*First American*

*Western Pioneer Title Company of Lane County*  
*a division of First American Title Insurance Co.*  
600 Country Club Road  
Eugene, OR 97401  
Phn - (541) 484-2900  
Fax - (541) 484-7321

**RONALD DENTON**  
TITLE OFFICER  
radenton@firstam.com

Jeffrey & Susan Cook  
458 Terrace Dr  
Fairbanks, AK 99712

Order No.: 7199-520046  
February 02, 2005

Attn:  
Phone No.: - Fax No.:  
Email:

Re:

**Preliminary Title Report**

ALTA Owners Standard Coverage	Liability \$	Premium \$	
ALTA Owners Extended Coverage	Liability \$	Premium \$	
ALTA Lenders Standard Coverage	Liability \$	Premium \$	
ALTA Lenders Extended Coverage	Liability \$	Premium \$	
Endorsement		Premium \$	
Govt Service Charge		Cost \$	50.00
Other Preliminary Title Report		Cost \$	175.00

We are prepared to issue Title Insurance Policy or Policies in the form and amount shown above, insuring title to the following described land:

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

and as of January 13, 2005 at 8:00 a.m., title vested in:

Jeffrey J. Cook and Susan K. Cook, husband and wife as tenants by the entirety

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
2. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

3. Maintenance provisions as contained in various instruments of record, including terms and provisions thereof.

Recorded: November 29, 1941, Book 224, Page 457 and recorded December 6, 1941, Book 224, Page 668 and recorded October 23, 1941, Book 223, Page 46 and recorded December 2, 1980, Reception No. 80-60875

- END OF EXCEPTIONS -

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount: \$688.38  
Map No.: 1603314001700  
Property ID: 0041374  
Tax Code No.: 4-38

NOTE: Taxes for the year 2004-2005 PAID IN FULL

Tax Amount: \$49.67  
Map No.: 1603314001600  
Property ID: 0041366  
Tax Code No.: 4-38

Situs Address as disclosed on Lane County Tax Roll:

90852 Smith Lane, Eugene, OR 97408

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!  
WE KNOW YOU HAVE A CHOICE!**

cc:

cc: Jeffry J. Cook and Susan K. Cook





## First American Title Insurance Company of Oregon

### SCHEDULE OF EXCLUSIONS FROM COVERAGE

#### ALTA LOAN POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy;
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or the extent insurance is afforded herein as to assessments for street improvements under construction or completed at date of policy); or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable "doing business" laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

#### ALTA OWNER'S POLICY (10/17/92)

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

#### SCHEDULE OF STANDARD EXCEPTIONS

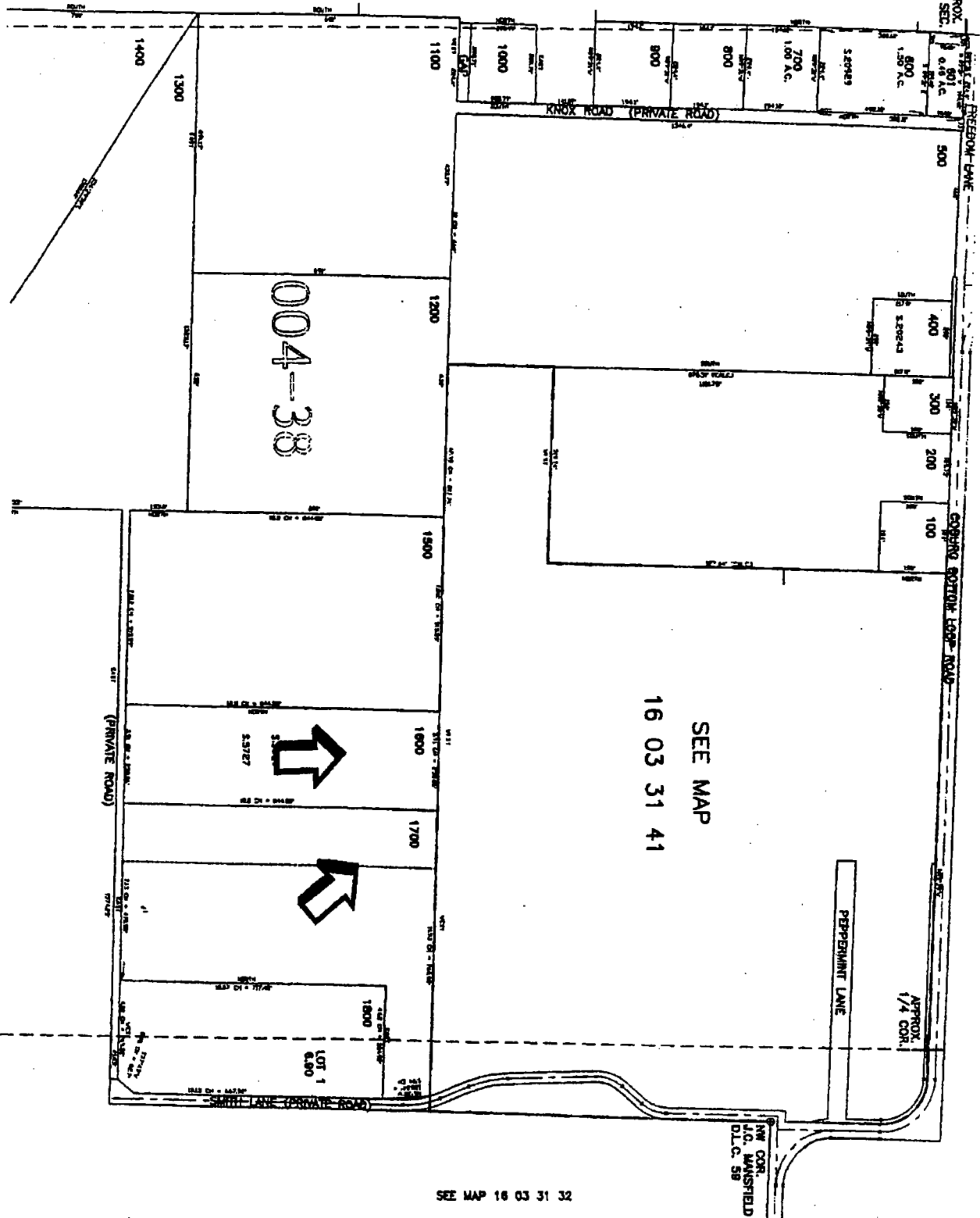
The ALTA standard policy form will contain in Schedule B the following standard exceptions to coverage:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceeding by a public agency which may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records, unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

TI 149 Rev. 5-99

APPROX. 1/4 COR. 1/4 COR. 1/4 COR.



SEE MAP 16 03 31

SEE MAP  
16 03 31 41

SEE MAP 16 03 31 32

1/4 COR.  
J.C. WAUWATSEDA  
D.L.C. 58

CANCELLED

THIS MAP IS PROVIDED AS A COURTESY OF WESTERN PIONEER TITLE COMPANY

THIS MAP IS PROVIDED SOLELY TO ASSIST IN LOCATING THE SUBJECT PROPERTY.  
NO LIABILITY IS ASSUMED FOR DISCREPANCIES IN THIS MAP AS OUTLINED AND THE  
ACCOMPANYING LEGAL DESCRIPTION.

31  
32  
6 1/2

16 03 31 40

2100

16-3-31

5. T. 5

7427980

77 56-50

MEMORANDUM OF AGREEMENT

May 31, 1974

BY INSTRUMENT in writing dated the 21 day of May, 1974, CARMEN EDITH REYNOLDS, sold on written Land Sale Contract to JEFFRY J. COOK And SUSAN K. COOK, husband and wife, the following described real property:

PARCEL # 1:

Beginning at a point 12.13 chains west and 26.665 chains South of the Northwest corner of the John C. Mansfield Donation Land Claim No. 59, in Township 16 South, Range 3 West of the Willamette Meridian, and running thence North 12.80 chains, thence West 3.91 chains, thence South 12.80 chains, thence East 3.91 chains to the place of beginning.

X  
2000

ALSO, a perpetual right of way, for road purposes, on the roadway now in existence, over and across the property of the grantors, for the purposes of ingress and egress, as long as the grantees herein or their heirs and assigns shall pay their proportionate part of the upkeep of said roadway, extending along the South line of said tract, easterly and northerly to the County Road.

PARCEL # 2:

Beginning at a point 5.00 chains West and 26.665 chains South of the Northwest corner of the John C. Mansfield Donation Land Claim No. 59, in Township 16 South, Range 3 West of the Willamette Meridian and running thence North 10.87 chains; thence East 4.62 chains; thence North 6° 30' West, 1.94 chains; thence West 11.53 chains; thence South 12.80 chains; thence East to the place of beginning, in Lane County, Oregon.

ALSO, a perpetual right of way for road purposes, on the roadway now in existence, over and across the property of the grantors for the purpose of ingress and egress, as long as the grantees herein, or their heirs and assigns, shall pay their

7427980

proportionate part of the upkeep of said roadway extending along the South line of said tract; and easterly and northerly to the County Road.

This Memorandum is executed to evidence and confirm the Contract referred to above, and give notice of Purchasers' interest therein. The true and actual consideration is \$30,000.00.

IN WITNESS WHEREOF, this Memorandum has been executed in duplicate the day and year above written.

Carmen Edith Reynolds  
Carmen Edith Reynolds

VENDOR

Jeffrey J. Cook  
Jeffrey J. Cook

Susan K. Cook  
Susan K. Cook

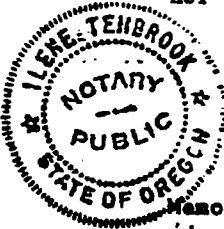
PURCHASERS

STATE OF OREGON )  
County of Lane ) ss.

May 21, 1974

Personally appeared the above named CARMEN EDITH REYNOLDS, and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:



Olene Tenbrook  
Notary Public for Oregon  
My Commission Expires 5-3-77

2/00 16-3-31

8208659

ASSIGNMENT OF LAND SALE CONTRACT BY VENDOR

Pursuant to the Decree of Final Distribution in the matter of the Estate of Carmen E. Reynolds, Deceased, Case No. 50-81-03673 in the Circuit Court of the State of Oregon for Lane County, Michael V. Reynolds, Decedent's Personal Representative hereby assigns and transfers all of Decedent's right and interest in and to that certain Land Sale Contract dated May 21, 1974 between Carmen Edith Reynolds as Vendor and Jeffry J. Cook and Susan K. Cook as Vendee, covering the following described real property as it is described in said Contract, to-wit:

PARCEL ONE:

Beginning at a point 12.13 chains West and 26.665 chains South of the Northwest corner of the John C. Mansfield Donation Land Claim No. 59, in Township 16 South, Range 3 West of the Willamette Meridian, and running thence North 12.80 chains, thence West 3.91 chains, thence South 12.80 chains, thence East 3.91 chains to the place of beginning. D 7 - 11 C 1953 1106260

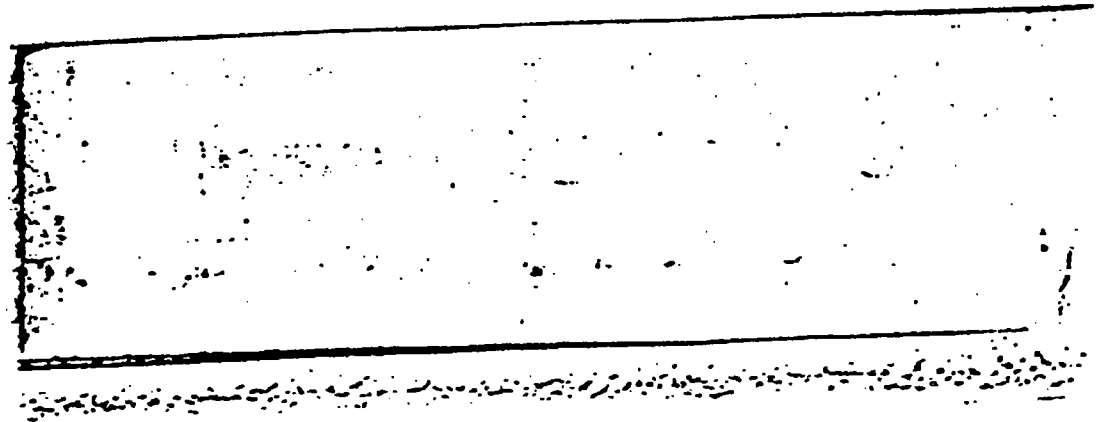
ALSO, a perpetual right of way, for road purposes, on the roadway now in existence, over and across the property of the grantors, for the purposes of ingress and egress, as long as the grantees herein or their heirs and assigns shall pay their proportionate part of the upkeep of said roadway, extending along the South line of said tract, easterly and northerly to the County Road.

PARCEL TWO:

Beginning at a point 5.00 chains West and 26.665 chains South of the Northwest corner of the John C. Mansfield Donation Land Claim No. 59, in Township 16 South, Range 3 West of the Willamette Meridian and running thence North 10.87 chains; thence East 4.62 chains; thence North 6° 30' West, 1.94 chains; thence West 11.53 chains; thence South 12.80 chains; thence East to the place of beginning, in Lane County, Oregon.

ALSO, a perpetual right of way for road purposes, on the roadway now in existence, over and across the property of the grantors for the purpose of ingress and egress, as long as the grantees herein, or their heirs and assignees shall pay their proportionate part of the upkeep of said roadway extending along the South line of said tract; and easterly and northerly to the County Road.

together with all of Decedent's right and interest in and to all monies due and to



16-3-31 2020

WARRANTY DEED—STATUTORY FORM  
INDIVIDUAL GRANTEE

11  
CARMEN EDITH REYNOLDS, Grantor,  
conveys and warrants to JEFFRY J. COOK and SUSAN K. COOK, husband and wife, Grantees,  
the following described real property free of encumbrances except as specifically set forth herein situated in  
Lane County, Oregon, to-wit:

PARCEL # 1:

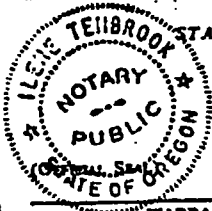
Beginning at a point 12.13 chains west and 26.665 chains South of the Northwest corner of the John C. Mansfield Donation Land Claim No. 59, in Township 16 South, Range 3 West of the Willamette Meridian, and running thence North 12.80 chains, thence West 3.91 chains, thence South 12.80 chains, thence East 3.91 chains to the place of beginning.  
(continued on reverse)

*X*  
The said property is free from encumbrances except easements, restrictions and conditions of record.

The true consideration for this conveyance is \$ 30,000.00. (Here comply with the requirements of ORS §1407.65)

Dated this 21 day of MAY, 1974

*Carmen Edith Reynolds*



STATE OF OREGON, County of Lane, on May 21, 1974  
Personally appeared the above named CARMEN EDITH REYNOLDS

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

Before me: *Elsie Tebbrook*  
Notary Public for Oregon—My commission expires: 2-3-77

WARRANTY DEED

GRANTOR

GRANTEE

GRANTEE'S ADDRESS, IF

After recording return to:

NAME, ADDRESS, ZIP

Until a change is requested, all tax statements shall be sent to the following address:

Jeffry J. & Susan K. Cook  
Box 2134  
Fairbanks, Alaska 99707

NAME, ADDRESS, ZIP

STATE OF OREGON

County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book \_\_\_\_\_ on page \_\_\_\_\_ or as file/reel number \_\_\_\_\_ Record of Deeds of said County. Witness my hand and seal of County aforesaid.

By \_\_\_\_\_ Recording Officer  
Deputy

8060875

ALSO, a perpetual right of way, for road purposes, on the roadway now in existence, over and across the property of the grantors, for the purposes of ingress and egress, as long as the grantees herein or their heirs and assigns shall pay their proportionate part of the upkeep of said roadway, extending along the South line of said tract, easterly and northerly to the County Road.

**PARCEL # 2:**

Beginning at a point 5.00 chains West and 26.665 chains South of the Northwest corner of the John C. Mansfield Donation Land Claim No. 59, in Township 16 South, Range 3 West of the Willamette Meridian and running thence North 10.87 chains; thence East 4.62 chains; thence North 6° 30' West, 1.94 chains; thence West 11.53 chains; thence South 12.80 chains; thence East to the place of beginning, in Lane County, Oregon.

ALSO, a perpetual right of way for road purposes, on the roadway now in existence, over and across the property of the grantors for the purpose of ingress and egress, as long as the grantees herein, or their heirs and assigns, shall pay their proportionate part of the upkeep of said roadway extending along the South line of said tract; and easterly and northerly to the County Road.

8060875

State of Oregon,  
County of Lane--s.

I, D.M. Penfield, Director of Records and Elections Division, in and for the said County, do hereby certify that the within instrument was received for record at

2 DEC 00 11 35

Ref 1107R

Lane County OFFICIAL RECORDS.

D.M. Penfield, Director of Records and Elections Division.

By *Shelley*  
Deputy

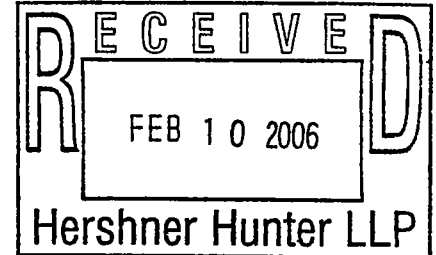
(10)

**Craig E. McKern, Appraiser, P.C.**  
**State Certified Residential Real Estate Appraiser**  
**Mailing: 1574 Coburg Road, PMB 397, Eugene, Oregon 97401-4802**  
**Telephone 541-345-0744 Facsimile 541-345-0577**  
**email: cem9th@msn.com**

February 10, 2006  
Jeffry and Susan Cook  
458 Terrace Drive  
Fairbanks, Alaska 99712

Re: 90852 Smith Lane, Eugene, Oregon 97408  
Tax Lots 16-03-31-40-01600 and 01700  
My files 121305A and 121305B

c/o Steve Cornacchia  
Hershner Hunter  
180 East 11<sup>th</sup> Avenue, Eugene, Oregon 97401



RE: Lane Code 2.740 (6)

Steve,

For your files, here is the Ballot Measure 37 summary for the above owner's property located at 90852 Smith Lane, Eugene, Oregon 97408, physically located in the Coburg area. See the report cover page following this synopsis letter for an outline of the two appraisal scenarios; see also the Land Use Regulation reports prepared by James Mann, LLC, for the subject parcels and his findings regarding Ballot Measure 37 as it pertains to this property.

These two restricted appraisal reports of complete appraisals for the subject property are restricted to knowledgeable users, namely yourself and your clients, with acknowledgment a Lane County claims decision committee will be a reader of these reports.

The reports are organized to provide opinions of value both for "before" and "after" the Ballot Measure 37 claims process. The "before" value is for both tax lots noted as vacant but buildable land with the reasonable assumption that the former single family residential homesite can be retained (for both tax lots as one legal lot of record) under current Exclusive Farm Use zoning as per current "grandfather" rights clauses.

The actual buildability of the hypothetical two acre parcel I have been asked to postulate for Ballot Measure 37 purposes may be affected by one or more of the following physical factors.

So far as the appraiser has been made aware, there is presently one older well installed and one older septic system installed in the area of the former residence site. Soils appear to allow good standard septic system possibilities however it is possible more expensive sand filter systems will be required by Lane County because of flooding potential from the McKenzie River (as per FEMA map, attached, subject to actual on ground elevation surveys).

page one of two



Cook  
90852 Smith Lane, Eugene, Oregon 97408  
c/o Steve Cornacchia  
Ballot Measure 37 claim  
page two of two

Another consideration is road access; from Coburg Bottom Loop, Smith Lane currently serves four residences and a fifth including the former dwelling on the subject. Under the after scenario, up to six additional residences would be accessed by this private road with shared use and maintenance agreement. As Smith Lane is presently a one lane gravel road, county required widening and possibly even paving can be reasonably foreseen as permit conditions.

Should this Ballot Measure 37 claim be fully approved by Lane County subject to physical requirements for any setbacks, driveways, road access, viable wells and septic system approvals, it is my opinion, hypothetically speaking, that Tax Lots 1600 and 1700 could have up to seven more or less two acre sites available out of 15.01 acres more or less total. The number of actual approved sites could possibly be increased from seven two acre sites to about 12 more or less one acre sites under the "appears" finding in James Mann's report noting that pre-1974 Lane County land use codes "did not regulate the partitioning of the subject property or the placement of five or less dwellings on the contiguous ownership of the subject property". The one acre scenario would obviously require greater well and septic system density, increased use of land area for roads and driveways and may also be considered out of character with the neighborhood, though Peppermint Lane to the north has greater density than one residence per acre.

This specific one acre parcel scenario is outside the scope of this report however I could postulate values for one acre parcels for a reasonable additional fee. The two acre scenario was used by this appraiser after consultation with both yourself and Mr. Cook with consideration for most suburban small acreage purchasers desire for some "elbow room" around a new dwelling and with allowance for ample space and dimension for well and septic system placement, given soils and drainage and driveway, dwelling and outbuilding placement.

Therefore it is postulated:

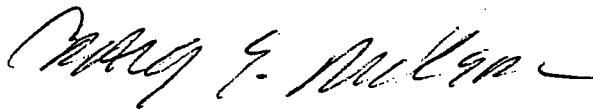
"Before scenario value", assuming one retained buildable site for present Tax Lots 1600 and 1700 = \$280,000

"After scenario value" with assumptions outlined above and in the specific report:  
A total of seven two acre hypothetical buildable sites at \$190,000 each = \$1,330,000

The postulated, hypothetical dollar difference of \$1,050,000 can be attributed to the creation of six additional buildable two acre sites from one previously built upon acreage having "grandfather" rights to rebuild the removed dwelling as per Lane Code.

Please contact me if you have any questions.

Cordially,



Craig E. McKern

Two Restricted Appraisal Reports of Complete Appraisals of:

a hypothetical vacant acreage located at

Number Not Assigned Smith Lane, Eugene, Oregon 97408  
File 121305B  
Portion of Tax Lots 16-03-31-40-01600 and 01700  
A 2.00 acre site, the "after" instance  
(unsurveyed, not a legal lot; one buildable homesite assumed)

AND

an existing parcel known as

90852 Smith Lane, Eugene, Oregon 97408  
File 121305A  
Tax Lots 16-03-31-40-01600 and 01700  
The combined 14.09 acre more or less present site, the "before" instance  
(surveyed, two tax lots, one legal lot as combined, buildable at this time)

Address:  
90852 Smith Lane  
Eugene, Oregon 97408

Client:

Cook, Jeffrey J. and Susan K.

c/o Steve Cornacchia, attorney  
Hershner Hunter  
180 East 11th Avenue  
Eugene, Oregon 97401

Purpose of the Appraisal:

To estimate market value of actual and hypothetical parcels subject to certain conditions outlined in the text and exhibits of the reports 121305A and 121305B

Use of the Appraisal:

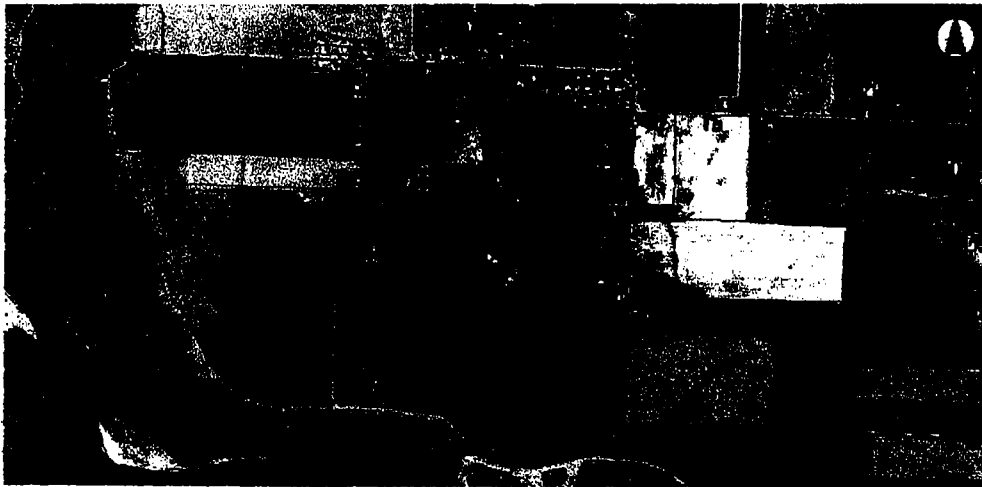
For use in a State Measure 37 proceeding brought by the owners and attorney in Lane County, Oregon

Date of Most Recent Inspection  
and Effective Date of Report:  
January 9, 2006

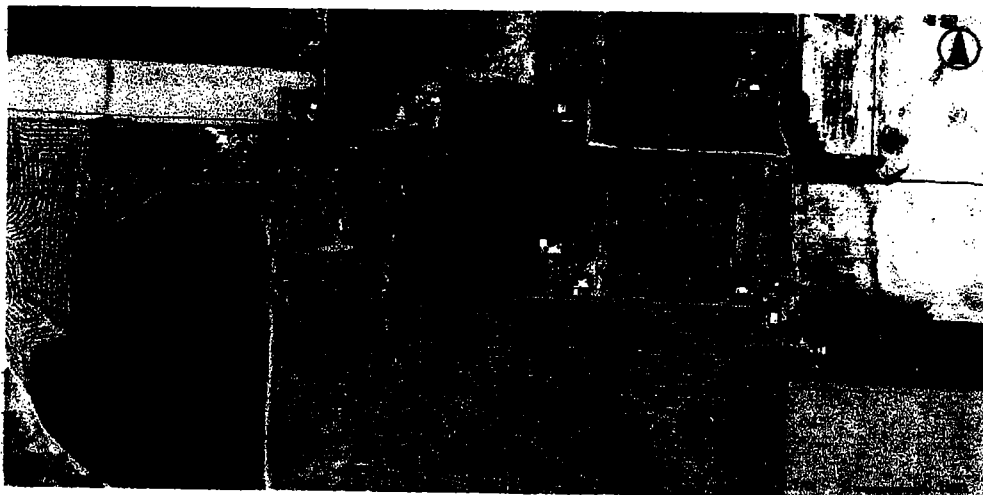
Report Completion Date:  
February 9, 2006

Prepared by:

Craig E. McKern, Appraiser, P.C.  
Certified Residential Real Estate Appraiser  
1574 Coburg Road, PMB 397  
Eugene, Oregon 97401-4802  
files 121305A and 121305B



**General aerial view of subject area with Coburg Bottom Loop Road at upper right to center, Peppermint Lane center top, McKenzie River lower left. Subject just right of center photo. See maps attached**



**Detail aerial photo showing subject right of center, Smith Lane from north to south and then east to west in center of photo, dwelling on site has been removed. Some fields in area may have potential for future sand and gravel extraction operations**

**PROPERTY REPORT - LANE COUNTY**

**Account # 0041366**

**Map, Tax Lot, & SIC # 16-03-31-40-01600**

Site Address:	
Owner Name & Address: <b>Cook Jeffrey J &amp; Susan K 458 Terrace Dr Fairbanks , AK 99712</b>	Taxpayer Name & Address: <b>Cook Jeffrey J &amp; Susan K 458 Terrace Dr Fairbanks , AK 99712</b>
Multiple Owners? No.	
Additional <u>Account</u> Numbers for this Tax Lot & SIC:	

Approximate Tax Lot Acres	4.65 202,554'	Subdivision Name:		School District:	Eugene
Inc City:		Phase:		Elem	Coburg
UGB:		Lot #	TL 01600	Middle	Cal Young
Census Tr/BlkGrp:	0300/1	Recording #		High	Sheldon

Zoning: Parent/Overlay	E30
Statistical Class:	
Land Use:	8040 Pasture, Cows, Sheep, Cattle
Property Class:	550 Farm, Efu, Vacant

**Property Value and Taxes**

	Land Value <u>Real Market</u>	Improvement Value <u>Real Market</u>	Total Value <u>Real Market</u>	<u>Assessed</u>
2005	\$49,734	\$0	\$49,734	\$4,671
2004	\$42,826	\$0	\$42,826	\$4,535
	<b>2005 Taxable Value</b> \$ 4,671	<b>2005 Taxes</b> \$53.04	<b>Tax Code Area</b> 00438	

**Two Most Recent Sales**

Date	Price	Grantor	Grantee	Instrument #
------	-------	---------	---------	--------------

**Residential Building # 0 (of 0 ) Characteristics**

	Square feet	Base	Finished	
Year Built:				Bsmt Garage Sqft
Bedrooms				Att Garage Sqft
Full Baths				Det Garage Sqft
Half Baths				Att Carport Sqft
% Improvmt Complete				
	Basement			
	First			
	Second			
	Attic			
	Total			

<b>Comments:</b>
------------------

\*This report extracts commonly used information from the Detailed Property Report. [Click here for the full Detailed Property Report.](#)

**PROPERTY REPORT - LANE COUNTY**

**Account # 0041374**

**Map, Tax Lot, & SIC # 16-03-31-40-01700**

<b>Site Address: 90852 SMITH LN EUGENE OR 97408</b>	
<b>Owner Name &amp; Address:</b> Cook Jeffry J & Susan K 458 Terrace Dr Fairbanks , AK 99712	<b>Taxpayer Name &amp; Address:</b> Cook Jeffry J & Susan K 458 Terrace Dr Fairbanks , AK 99712
Multiple Owners? No.	
Additional <u>Account</u> Numbers for this Tax Lot & SIC:	

Approximate Tax Lot Acres	9.44 411,206'	Subdivision Name:		School District:	Eugene
Inc City:		Phase:		Elem	Coburg
UGB:		Lot #	TL 01700	Middle	Cal Young
Census Tr/BlkGrp:	0300/1	Recording #		High	Sheldon

Zoning: Parent/Overlay	E30
Statistical Class:	120 Class 2 Single Family Home
Land Use:	1111 Single Family Housing
Property Class:	551 Farm, Efu, Improved

**Property Value and Taxes**

	<u>Land Value</u> <u>Real Market</u>	<u>Improvement Value</u> <u>Real Market</u>	<u>Total Value</u> <u>Real Market</u>	<u>Assessed</u>
2005	\$124,251	\$2,320	\$126,571	\$34,947
2004	\$103,041	\$56,500	\$159,541	\$59,992
	<b>2005 <u>Taxable Value</u></b> \$ 34,947	<b>2005 <u>Taxes</u></b> \$355.21	<b>Tax Code Area</b> 00438	

**Two Most Recent Sales**

Date	Price	Grantor	Grantee	Instrument #
------	-------	---------	---------	--------------

**Residential Building # 1 (of 1) Characteristics 21 stat 110 or 120**

		Square feet	Base	Finished	
Year Built:	1938	Basement			Bsmt Garage Sqft
Bedrooms	1	First	800	800	Att Garage Sqft
Full Baths	1	Second			Det Garage Sqft
Half Baths		Attic			Att Carport Sqft
% Improvmt Complete	100	Total	800	800	

**Comments:**

\*This report extracts commonly used information from the Detailed Property Report. [Click here for the full Detailed Property Report.](#)

**PHOTOGRAPH ADDENDUM One**

Borrower/Client	No borrower				
Property Address	90852 Smith Lane				
City	Eugene	County	Lane	State	OR
				Zip Code	97408
Lender	Cook, Jeffrey and Susan, c/o Steve Comecchia				



Looking north on Smith Lane toward dwelling located on Tax Lot 100 (out of Tax Lot 200) in 16-03-31-41 subsection

Vehicle is parked north of approximate north lot line



Looking south on Smith Lane from area of former dwelling and now a homesite waiting for a future home to be built or placed on it

Dwelling in distance is at right angle corner of Smith Lane and is on Tax Lot 1800; the north line of Tax Lot 1800 is approximately the fence corner just left of center photo on right side of Smith Lane



Looking west along approximate north lot line of subject site with homesite area to left

Subject property extends from Smith Lane (which is on site and crosses over site) to west to approximate line of smaller fir trees in mid distance. North line approximately aligns with tall fir tree to right of center

## PHOTOGRAPH ADDENDUM Two

Borrower/Client	No borrower		
Property Address	90852 Smith Lane		
City	Eugene	County	Lane
State	OR	Zip Code	97408
Lender	Cook, Jeffrey and Susan, c/o Steve Comacchia		



Homesite looking east from rear from south of approximate north lot line

Coburg Hills in distance



Wider view of homesite area looking southeast, vehicle on left is parked north of approximate north lot line

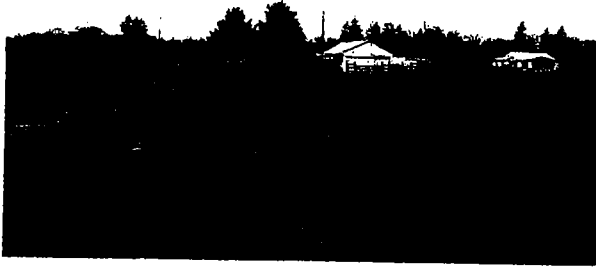


Looking southwest from north lot line toward dwelling on Tax Lot 1500 at far end of Smith Lane

**PHOTOGRAPH ADDENDUM Three**

Borrower/Client	No borrower				
Property Address	90852 Smith Lane				
City	Eugene	County	Lane	State	OR
				Zip Code	97408
Lender	Cook, Jeffrey and Susan, c/o Steve Comacchia				

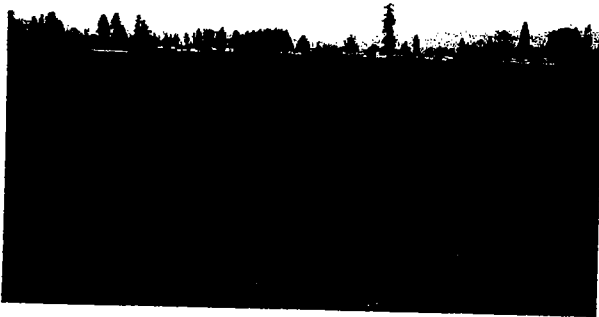
Looking west along south end of Smith Lane, dwelling on right is on Tax Lot 1500



Looking northwest toward west property line of subject with Tax Lot 1500 to left of small fir tree line



Looking north from south portion of Smith lane over subject site with Peppermint Lane tract in distance





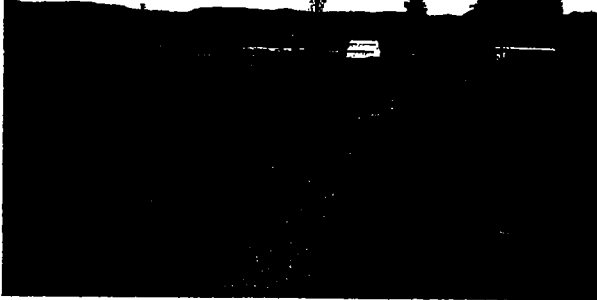
# PHOTOGRAPH ADDENDA Four

Borrower/Client	No borrower						
Property Address	90852 Smith Lane						
City	Eugene	County	Lane	State	OR	Zip Code	97408
Lender	Cook, Jeffrey and Susan, c/o Steve Comacchia						

Looking northeast from south portion of Smith Lane



Looking east on south portion of Smith Lane toward Tax Lot 1800



Looking north along property line (approximately marked by fence between subject Tax Lot 1700 and Tax Lot 1800)



Restricted Appraisal Report

Borrower No borrower
Property Address 90852 Smith Lane // Tax Lots 16-03-31-40-01600 and 01700
City Eugene (Coburg area) County Lane State OR Zip Code 97408
Legal Description Lengthy Metes and Bounds Legal Description...see preliminary title report attached
Sale Price \$ Not Sold Date of Sale N/A Loan Term N/A yrs. Property Rights Appraised [X] Fee [ ] Leasehold [ ] De Minimis PUC
Actual Real Estate Taxes \$ 738.05 (yr) Loan charges to be paid by seller \$ N/A Other sales concessions Not Applicable
Lender/Client Cook, Jeffrey and Susan, c/o Steve Comacchia Address attorney, 180 East 11th Avenue, Eugene, Oregon 97401
Occupant vacant land Appraiser Craig E. McKern Instructions to Appraiser appraise to market value per USPAP standards.
Craig E. McKern, Appraiser, P.C. 1574 Coburg Road, PMB 397, Eugene, Oregon 97401 telephone 541-345-0744 facsimile 541-345-0577

Table with columns for Location, Built Up, Growth Rate, Property Values, Demand/Supply, Marketing Time, Present Land Use, Change in Present Land Use, Predominant Occupancy, Single Family Price Range, Single Family Age. Includes a grid for Employment Stability, Convenience to Employment, etc.

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject located southwest of City of Coburg off Coburg Bottom Loop Road with residential development on 0.25 acre to 40+ acre parcels among farmlands and sand/gravel extraction zoned lands northeast of the McKenzie and Willamette River confluence. The area has bucolic rural ambience in 5 to 20 minute commuter distance to Coburg, Interstate 5 access and Eugene-Springfield metro area employment, services; local services are in Coburg, a historic small city.

Dimensions Irregular, see plat map = 15.01 Sq. Ft. or Acres
Zoning classification E30- Exclusive Farm Use 30 acre minimum new site Present improvements [X] do [ ] do not conform to zoning regulations
Highest and best use [X] Present use [X] Other (specify) potential to partition to smaller hypothetical sites under present Measure 37 procedures
Elec. Public [X] Other (Describe) OFF SITE IMPROVEMENTS Topo Level to slight
Gas [ ] Street Access [ ] Public [X] Private [ ] Size Typical of the area for mid-sized remnant parcels
Water [ ] Surface All Weather Gravel Shape Irregular, mostly rectangular
San. Sewer [ ] Private Well Maintenance [ ] Public [X] Private [ ] View Fields
Private Septic [ ] Storm Sewer [ ] Curb/Gutter Drainage Adequate; FEMA 41039C-0639F 06-20-1999; Zones AE & X
Underground Elect. & Tel. [ ] Sidewalk [ ] Street Lights Is the property located in a HUD Identified Special Flood Hazard Area? [X] No [ ] Yes
Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions): FEMA map shows site in Zone A; research shows site out of Zone A flood plain per owners with dwelling foundations to be elevated 2 feet above ground or surveyed flood level (as in Zone AE or X). Smith Lane is private road with reciprocal easements and shared maintenance. Newberg Class IIw soils subject to erosion, compaction when wet; otherwise suitable for all climate zone crops. Site combines two tax lots: TL 1600= 5.0 acres; TL 1700 = 10.01 acres.

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to or more favorable than the subject property, a minus (-) adjustment is made thus reducing the indicated value of subject; if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made thus increasing the indicated value of the subject.

Table with columns: ITEM, SUBJECT PROPERTY, COMPARABLE NO. 1, COMPARABLE NO. 2, COMPARABLE NO. 3. Rows include Address, Proximity to Subject, Sales Price, Price, Data Source, Date of Sale and Time Adjustment, Location, Site/View, Utilities / Drive, Buildability/Slope, Well / Septic, Structures, Sales or Financing Concessions, Net Adj. (Total), Indicated Value of Subject.

Comments on Market Data: Very limited recent data for openly marketed mid sized remnant parcels in the Coburg area due to past development leading to very few existing, vacant and buildable properties available for sale. Sales 1 and 2 are east of Coburg, similar access to services, in a newer tract of view sites with community water system, paved roads, UG utilities, among similar higher value acreages. Sale 3 located north...
Comments and Conditions of Appraisal: The appraisal is made to cash equivalency per USPAP and FIRREA guidelines; USPAP departure provisions do not apply. See attached assumptions, limiting conditions and comments. Subject appraised with two tax lots combined for an "as is," "before" scenario for Measure 37 claim procedure purposes. \*\*\* in north Santa Clara district 1/2 mile outside city limits but in Junction City School District; this site is zoned EFU-30 acre minimum and had not been built upon but did have an older well; dwelling allowed by special use permit.

Final Reconciliation: The market data (sale comparison) approach is the only reliable method of estimating vacant or non-residential site value. The cost approach is omitted as there are no improvements on this hypothetical site. The income approach does not normally apply to vacant land. 14 acres of site is leased for agricultural purposes at \$90.00 per net acre however land lease income would not be a motivating factor.
ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF January 9, 2006 to be \$ 280,000

The opinion of value stated is within a range of indicated values. Value opinion is provided for comparison purposes in a Measure 37 proceeding only and only an actual open market exposure test can be considered to prove a true market value.
Craig E. McKern signed 02-09-2006 [X] Did [ ] Did Not Physically Inspect Property
Appraiser(s) [Signature] Review Appraiser (if applicable)

Restricted Appraisal Report

File No. 121305B

Borrower No borrower, Property Address 90852 Smith Lane // (actual street number not assigned), City Eugene (Coburg area), State OR, Zip Code 97408, Lender/Client Cook, Jeffry and Susan, c/o Steve Comacchia

Location, Built Up, Growth Rate, Property Values, Demand/Supply, Marketing Time, Present Land Use, Change in Present Land Use, Predominant Occupancy, Single Family Price Range, Single Family Age

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject located southwest of City of Coburg off Coburg Bottom Loop Road with residential development on 0.25 acre to 40+ acre parcels among farmlands and sand/gravel extraction zoned lands northeast of the McKenzie and Willamette River confluence.

Dimensions 295' x 295' more or less, Zoning classification E30- Exclusive Farm Use 30 acre minimum new site, Highest and best use, Elec, Gas, Water, San. Sewer

Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions): FEMA map shows site in Zone A; research shows hypothetical site out of Zone A flood plain per owners with dwelling foundations to be elevated 2 feet above ground or surveyed flood level (as in Zone AE or X).

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties.

Table with columns: ITEM, SUBJECT PROPERTY, COMPARABLE NO. 1, COMPARABLE NO. 2, COMPARABLE NO. 3. Rows include Address, Proximity to Subject, Sales Price, Price, Data Source, Date of Sale and Time Adjustment, Location, Site/View, Utilities / Drive, Buildability/Slope, Well / Septic, Structures/Flood, Sales or Financing Concessions, Net Adj. (Total), Indicated Value of Subject.

Comments on Market Data: Very limited recent data for openly marketed mid sized remnant parcels in the Coburg area due to past development leading to very few existing, vacant and buildable properties available for sale. Comments and Conditions of Appraisal: The appraisal is made to cash equivalency per USPAP and FIRREA guidelines.

Final Reconciliation: The market data (sale comparison) approach is the only reliable method of estimating vacant or non-residential site value. I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF January 9, 2006 to be \$ 190,000

The opinion of value stated is within a range of indicated values. Value opinion is provided for comparison purposes in a Measure 37 proceeding only and only an actual open market exposure test can be considered to prove a true market value. Craig E. McKern, Appraiser, signed 02-09-2006

**James A. Mann LLC**

*Land Use Planning & Development Permit Services*

P.O. Box 51081

Eugene, Oregon 97405-0902

Telephone: (541) 514-3051 FAX: (541) 484-2761

Email: jamannllc@comcast.net

November 3, 2005

Jeffry and Susan Cook  
458 Terrace Drive  
Fairbanks, Alaska 99712

Subject: Report Regarding Lane County Land Use Regulations  
For an Evaluation under BM 37  
Map 16-03-31.4 Tax Lots 1600 & 1700

Dear Jeffry and Susan,

The purpose of this report and the attached information is to assist with a Ballot Measure 37 claim for this property. This report identifies and summarizes the Lane County land use regulations that were applicable to the subject property on May 21, 1974, and the Lane County land use regulations that are now applicable to the subject property. Copies of these regulations are attached to this report. The subject property contains two tax lots: TL 600 with 5 vacant acres and TL 1700 with 10 acres and an existing dwelling. The subject property is located off of Smith Lane and a private road, approximately 2 miles southwest of the city of Coburg. See the illustrations on the next page of this report.

**I. Summary of Relevant Lane County Land Use Regulations.**

On May 21, 1974, the subject property was not zoned and was designated by the Eugene-Springfield Metropolitan Area 1990 General Plan as "Agricultural". Lane County regulated some uses in unzoned areas with LC 9.700-9.765 that included in LC 9.170, "(17) More than five (5) dwelling units per lot or parcel or contiguous lots or parcels under the same ownership." and "(29) Preliminary major subdivision applications as defined by LC Chapter 13." Adopted requirements in Lane Code Chapters 13 and 15 would have applied to the subdivision or access of the subject property. It appears that Lane Code did not regulate the partitioning of the subject property or the placement of five or less dwellings on the contiguous ownership of the subject property.

Today, the subject property is under the jurisdiction of the acknowledged Lane County Rural Comprehensive Plan (RCP), is designated on the diagram as "Agricultural" land and is zoned Exclusive Farm Use, E30. LC 16.212(5)-(7) requires land use application approvals for new dwellings that must comply with strict requirements for farm dwellings or non-farm dwellings. LC 16.212(9) requires, with a few narrow exceptions, a minimum area of 30 acres in each newly created parcel.

Borrower/Client	No borrower		
Property Address	90852 Smith Lane // Tax Lots 16-03-31-40-01600 and 01700		
City	Eugene (Coburg area)	County	Lane
		State	OR
		Zip Code	97408
Lender	Cook, Jeffry and Susan, c/o Steve Cornacchia		

#### Appraisal Development and Reporting Process:

As per prior agreement with the client named on the cover sheet and first form page of this report, the level of appraisal service requested is a Restricted Appraisal Report of a Complete Appraisal of the subject property. This level of service has, in the past, been known as a "form appraisal" using standard FNMA or FHLMC forms to convey information to the reader. This level of appraisal service is for the most part the same as past "form appraisals".

This report is a Restricted Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2c of the Uniform Standards of Professional Appraisal Practice (USPAP) for a Restricted Appraisal Report. As such, it represents only brief discussions of the data, reasoning and analyses used in the appraisal process to develop the appraiser's opinion of value stated elsewhere. Supporting documentation that is not provided with this report concerning the data, reasoning and analyses has been retained in the appraiser's file copy. The depth of the discussion contained in this report is specific to the needs of the client and for the intended use of this report stated below.

#### Scope of Work:

In preparing this report, the appraiser inspected the subject site on January 9, 2006. Relevant information on comparable land and improved site sales, construction costs and accrued depreciation were also gathered, verified and considered. All three approaches to value were considered; the sales comparison approach only was developed for 121305A and 121305B reports. No cost approach was necessary or applicable as there were no improvements on site other than an older well and septic system. See both reports attached for full comprehension.

The income approach, along with rents, comparative rental data and calculated formulas and multipliers, is used ONLY IF the subject is likely to become or remain a rental income property in the foreseeable future, which is not the case for the subject site at this time. However the site is leased for agricultural purposes on a year to year basis and the income would not be an incentive for a typical buyer; a typical buyer is seeking a suburban homesite.

#### Purpose of the Appraisal and Use of the Report:

The purpose of this appraisal report is to estimate the fair market value of subject site and sites under the Measure 37 "before and after" scenarios noted on the cover page and elsewhere in these reports.

This appraisal report is intended ONLY for the use of the client named for the purpose of establishing a fair market value by an independent third party for Measure 37 proceedings. The use of this report is restricted to the clients, Jeff and Susan Cook and their agent/attorney, Steve Cornacchia.

Duly constituted Lane County committees or courts for Measure 37 appeals are also an expected reader of this report but Lane County is not a client of the appraiser.

This report in its present configuration is not intended for any financing purpose whatsoever. Any other authorized use of this report will be stated either below or in the letter of engagement.

The appraiser is not and will not become responsible for any unauthorized use. Errors and omissions insurance is not extended to a future third party reader and the appraiser must be notified, timely and in writing, of any future transfer/assignment of this report to any third party.

#### Supplemental Certifications:


I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

In addition, I certify that, to the best of my knowledge and belief, the reported analyses, opinions and conclusions were developed, and this report prepared, with conformity to the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.

signed and dated February 9, 2006

Craig E. McKern  
president

Craig E. McKern Appraiser P.C.



Borrower No borrower File No. 121305A  
 Property Address 90852 Smith Lane // Tax Lots 16-03-31-40-01600 and 01700  
 City Eugene (Coburg area) County Lane State OR Zip Code 97408  
 Lender Cook, Jeffrey and Susan, c/o Steve Cornacchia

**APPRAISAL AND REPORT IDENTIFICATION**

This appraisal conforms to one of the following definitions:  
 Complete Appraisal (The act or process of estimating value, or an opinion of value, performed without invoking the Departure Rule.)  
 Limited Appraisal (The act or process of estimating value, or an opinion of value, performed under and resulting from invoking the Departure Rule.)

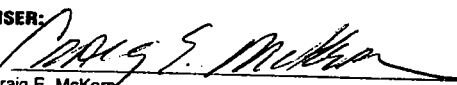
This report is one of the following types:  
 Self Contained (A written report prepared under Standards Rule 2-2(a) of a Complete or Limited Appraisal performed under STANDARD 1.)  
 Summary (A written report prepared under Standards Rule 2-2(b) of a Complete or Limited Appraisal performed under STANDARD 1.)  
 Restricted (A written report prepared under Standards Rule 2-2(c) of a Complete or Limited Appraisal performed under STANDARD 1, restricted to the stated intended use by the specified client or intended user.)

**Comments on Standards Rule 2-3**

I certify that, to the best of my knowledge and belief:  
 The statements of fact contained in this report are true and correct.  
 The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.  
 I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.  
 I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.  
 My engagement in this assignment was not contingent upon developing or reporting predetermined results.  
 My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.  
 My analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.  
 I have made a personal observation of the property that is the subject of this report.  
 No one provided significant real property appraisal assistance to the person signing this certification.  
 A lengthy period passed between the date of inspection and the date of completion as the appraiser performed a variety of investigations on Measure 37 and its ramifications for the subject property. There is no guarantee from the appraiser that the attached report(s) will be found fully satisfactory to the Lane County jurisdiction for handling Measure 37 claims, as these requirements may change due to court ordered or Legislature passed modifications. Recently, a Circuit Court court in Marion County held that Measure 37 as written was unconstitutional for various judicial reasons. This ruling is being appealed to the State Supreme Court.

**Comments on Appraisal and Report Identification**

Note any departures from Standards Rules 1-3 and 1-4, plus any USPAP-related issues requiring disclosure:  
 This appraisal report is complete on the basis of the full site observation, not the extent of commentary attached.  
 The appraised value includes a realty fee as did the sale prices of the comparables, unless otherwise stated.  
 Note the former dwelling on this site has been completely removed and it is assumed no toxic or hazardous materials remain on this site.  
 There were no directly observed toxic materials or hazardous substances in the immediate area of the subject; if any do exist, these are assumed to be safely stored and used according to label directions. A specific search for and recognition of toxic waste and hazardous materials such as might be found in a farm and ranch environment (a Level I assessment) is beyond the scope of the appraiser's training and knowledge. Common household, shop and garden chemicals and substances found in most homes and garages, including those of the reader, are assumed to exist around the site. These common toxic materials and hazardous substances include chemicals such as fertilizers, weed killers, pest poisons and sprays, bleach, detergent, oils, cleansers, solvents and fuels, among other solid, liquid and paste substances, and are assumed to be used according to label directions and Federal, state and local regulations unless otherwise specifically noted in this report.  
 It is specifically assumed there is no toxic mold or fungus manifest on the site which would affect livability or marketability.  
 See attached supplemental addendum. This report has been prepared for use in a State Measure 37 proceeding and is restricted to that use only. See the cover letter page for brief explanations of the use and purpose of this report 121305A in conjunction with report 121305B which is for a smaller hypothetical parcel out of the 15 acres more or less of the report in hand in order to provide "before and after" scenarios. The actual legality, validity and application of State Measure 37 is still in question with present and future court and Legislature involvements a certainty.

**APPRAISER:**  
 Signature:   
 Name: Craig E. McKern  
 Date Signed: February 9, 2006  
 State Certification #: CR00024  
 or State License #: \_\_\_\_\_  
 State: Oregon  
 Expiration Date of Certification or License: 09-30-2006

**SUPERVISORY APPRAISER (only if required):**  
 Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_  
 State Certification #: email: cem9th@msn.com  
 or State License #: phone 541-345-0744/fax 541-345-0577  
 State: \_\_\_\_\_  
 Expiration Date of Certification or License: \_\_\_\_\_

Did  Did Not Inspect Property