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# 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 06-5346, Marlow)

## 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 Gary and Maxine Marlow and Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow to use the property as allowed at the time they acquired an interest in the property?

## III. DISCUSSION

### A. Background

**Applicant:** Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley, Thomas Marlow.

**Current Owners:** Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley, Thomas Marlow.

**Agent:** Steve Cornacchia.

**Map and Tax lots:** 18-01-32 #1000, #1001, #1003 and #1005.

**Acreage:** approximately 65 acres.

**Current Zoning:** E40 (Exclusive Farm Use).

### Dates Interest Acquired in Property:

| Name                                                       | Tax lots | Date                | Deed           |
|------------------------------------------------------------|----------|---------------------|----------------|
| Gary and Maxine Marlow,<br>Kearney and Patricia<br>Simpson | 1000     | WD #68232           | March 25, 1963 |
|                                                            | 1001     |                     |                |
|                                                            | 1003     |                     |                |
|                                                            | 1005     |                     |                |
| Thomas Marlow                                              | 1005     | Unrecorded Contract | April 1964     |
| Jerry Dilley                                               | 1001     | B&S Deed #7318801   | March 27, 1973 |
|                                                            | 1003     |                     |                |

**Date claim submitted:** March 2, 2006.

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

**Restrictive County land use regulation:** Minimum lot size and restrictions on new dwellings in the E40 zone.

**B. Specific Relief Sought:**

On March 2, 1006, Steve Cornacchia submitted a Measure 37 Claim on behalf of Gary and Maxine Marlow and Kearney and Patricia Simpson. The applicants have requested compensation, or a waiver of the E40 (Exclusive Farm Use) zone regulations that prohibit the division of the property into lots containing less than 40 acres and construction of a dwelling on each lot.

**C. Lane Code Submittal Requirements**

The applicant has paid the processing fee and submitted information addressing all of the Lane Code submittal requirements, including an appraisal and a deeds.

**D. Analysis**

The property is zoned E40 (Exclusive Farm Use) and contains approximately 65 acres. The minimum lot size in this zone is forty acres and a new dwelling requires a special use permit. The current owners wish to subdivide the property into lots containing less than forty acres and place a dwelling on each lot. The applicants allege a reduction in value of \$3,550,000.

According to the applicants' representative, Gary and Maxine Marlow and Kearney and Patricia Simpson have legal and beneficial interests in tax lot 1000 and 1003, but only a beneficial interest in tax lots 1001 and 1005. The Board must determine if this is adequate interest for a valid Measure 37 claim. The relevant deeds and ownership documents are summarized below. All the ownership documents are summarized in an attachment to this report.

- In 1963, Gary and Maxine Marlow and Kearney and Patricia Simpson acquired tax lots 1000 through 1005 (Warranty Deed #68232). Tax lot 1002 is not part of this claim.
- In 1964, Gary and Maxine Marlow and Kearney and Patricia Simpson signed an unrecorded land sale contract with Thomas Marlow for tax lot 1005. In 1982, legal interest but not beneficial interest of tax lot 1005 was conveyed to Thomas Marlow (Bargain and Sale Deed 8214116).
- In 1973, they conveyed legal interest but not beneficial interest in tax lots 1001, 1003 and 1004 to Jerry Dilley (Bargain and Sale Deed #7318801). Tax lot 1004 is currently owned by Gale Miller and is not part of this claim.

The applicant has not provided a title report. Table 1 lists the current ownership according to the County Assessor's records:

*Table 1*

| <b>Tax lot</b> | <b>Owner</b>                                            |
|----------------|---------------------------------------------------------|
| 1000           | Kearney and Patricia Simpson,<br>Gary and Maxine Marlow |
| 1001           | Jerry Dilley                                            |
| 1003           | Jerry Dilley                                            |
| 1005           | Thomas Marlow                                           |

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**

Gary and Maxine Marlow and Kearney and Patricia Simpson acquired an interest in taxlots 1000, 1001, 1003 and 1005 on March 23, 1963, when it was unzoned.

Thomas Marlow acquired an interest in tax lot 1005 in April 1964. On that date, the property was unzoned.

Jerry Dilley acquired an interest in tax lots 1001 and 1003 on March 27, 1973. At that time, the property was unzoned.

Currently, the entire property is zoned E40 (Exclusive Farm Use), the minimum lot size is forty acres and a new dwelling requires a special use permit. Because of these limitations, Gary and Maxine Marlow, Kearney and Patricia Simpson, Thomas Marlow and Jerry Dilley are prevented from developing the site as might have been allowed when they acquired an interest in the property.

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

The applicants have submitted an appraisal by a certified real estate appraiser. Based on the appraisal, the existing 65 acres is worth \$450,000 if each existing tax lot is eligible for a dwelling. If the property is divided into 40 one-acre lots with a dwelling on each lot, the value could be \$4,000,000. The alleged reduction is \$3,550,000. The Board must determine if this evidence demonstrates a reduction in fair market value from enforcement of a restrictive land use regulation.

#### **Exempt Regulations**

The E40 (Exclusive Farm Use) limitation on new dwellings and the minimum parcel size of 40 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 or ownership.
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**

The County Administrator recommends alternative #1 if the Board determines the evidence demonstrates:

- The applicants have a valid ownership interest for purposes of a Measure 37 claim, and
- A reduction in fair market value from enforcement of a restrictive land use regulation.

## **VI. ATTACHMENTS**

- Order to approve the Measure 37 claim of Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow.
- Summary of submitted deeds and ownership documents.
- Vicinity map.
- Written claim submitted March 2, 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 (Marlow/ PA06-5346).

**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 Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow (PA06-5346), the owners of real property described in the records of the Lane County Assessor as map 18-01-32, tax lot 1000, 1001, 1003 and 1005, consisting of approximately 35 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 (PA06-5346) of Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow and has now determined that the restrictive E40 (Exclusive Farm Use) zone dwelling and land division requirements of LC 16.212 were enforced and made applicable to prevent Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow from developing the property as might have been allowed at the time an interest was acquired by each as follows: on March 25, 1963, for Gary and Maxine Marlow and Kearney and Patricia Simpson (tax lots 1000, and perhaps 1001, 1003 and 1005); on April 1964 for Thomas Marlow (tax lot 1005); and on March 27, 1973, for Jerry Dilley (tax lots 1001 and 1003); and that the public benefit from application of

the current E40 restrictions on new dwellings to the applicants' property is outweighed by the public burden of paying just compensation; and

**WHEREAS**, Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow request either \$4,550,000 as compensation for the reduction in value of their property, or waiver of all land use regulations that would prevent the creation of lots containing less than forty acres and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time they acquired an interest in the property; and

**WHEREAS**, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the E40 zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to allow Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow to make application for development of the subject property in a manner similar to what they could have been able to do under the regulations in effect when they acquired an interest in the property; and

**WHEREAS**, this matter having been fully considered by the Lane County Board of Commissioners.

**NOW, THEREFORE IT IS HEREBY ORDERED** that the applicants Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow made a valid claim under Ballot Measure 37 by describing the use being sought, identifying the county land use regulations prohibiting that use, submitting evidence that those land use regulations have the effect of reducing the value of the property, showing evidence that they acquired the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but in lieu of payment, the request of Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow shall be granted and the restrictive provisions of LC 16.212 that prevent the division of the property into lots containing less than forty acres and placement of a new dwelling on each lot in the E40 (Exclusive Farm Use) Zone shall not apply to Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow, so that they can make application for approval to develop the property described in the records of the Lane County Assessor as map 18-01-32, tax lot 1000, 1001, 1003 and 1005, in a manner consistent with the land use regulations in effect when they each acquired an interest in the property as follows: on March 25, 1963, for Gary and Maxine Marlow and Kearney and Patricia Simpson (tax lots 1000, 1001, 1003 and 1005); on April 1964 for Thomas Marlow (tax lot 1005); and on March 27, 1973, for Jerry Dilley (tax lots 1001 and 1003).

**IT IS HEREBY FURTHER ORDERED** that Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow still will need to make application and receive approval for placement of a dwelling under the other land use regulations applicable to placing a dwelling that were not specifically identified or established by Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow as restricting the division of the property into lots containing less than forty acres and placement of a dwelling on each lot, and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the dwelling or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of a

new dwelling to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37. All other Lane Code land use and development regulations shall remain applicable to the subject property until such time as they are shown to be restrictive and that those restrictions reduce the fair market value of the subject property.

**IT IS HEREBY FURTHER ORDERED** that this action making certain Lane Code provisions inapplicable to use of the property by Gary and Maxine Marlow, Kearney and Patricia Simpson, Jerry Dilley and Thomas Marlow does not constitute a waiver or modification of state land use regulations and does not authorize immediate division of the land or 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 owner. 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. Larson*  
OFFICE OF LEGAL COUNSEL

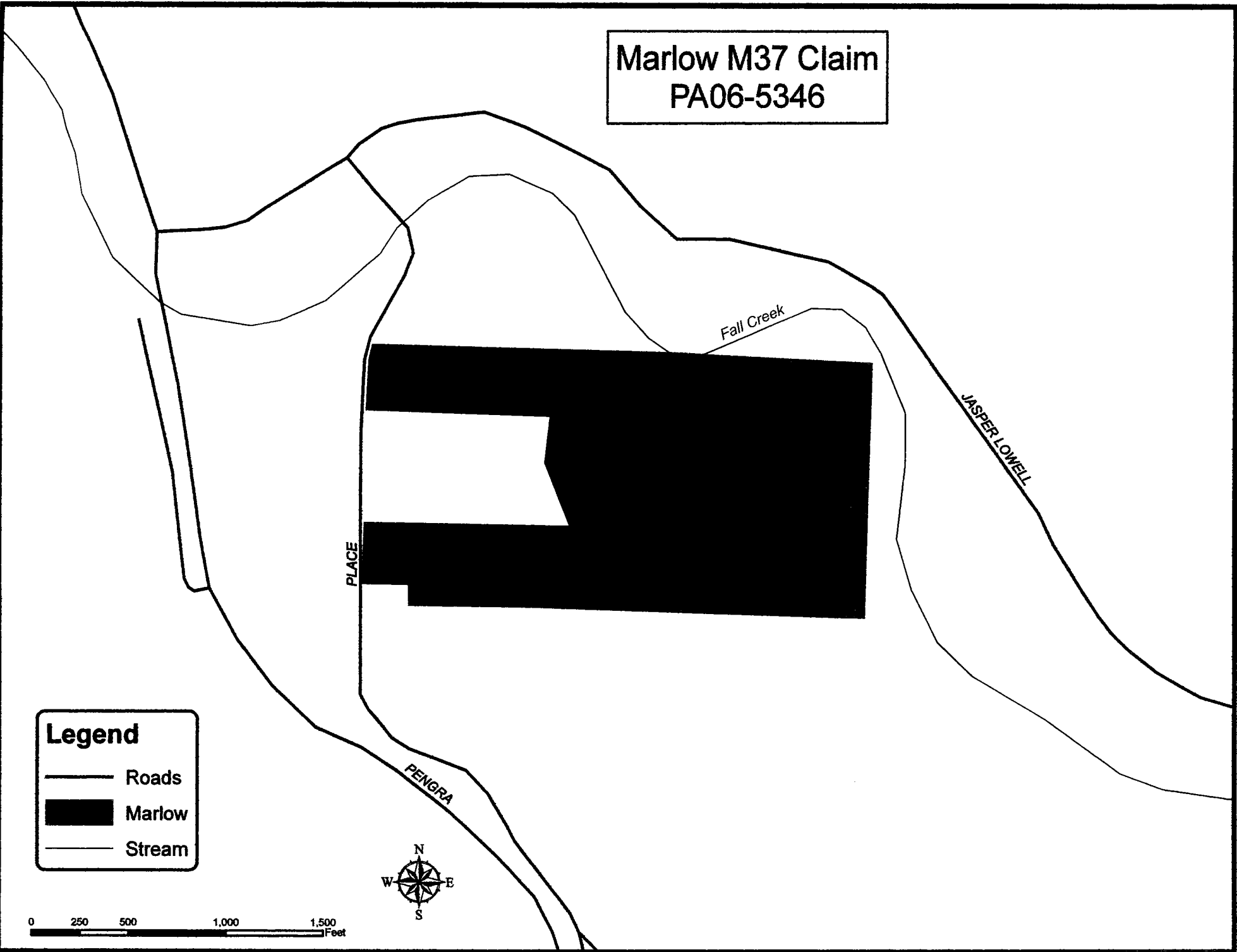
## **SUMMARY OF EVIDENCE OF OWNERSHIP**

The deeds and ownership documents submitted with this claim are summarized below:

- Warranty Deed #68232 dated March 25, 1963. From Jennie Kann to Kearney and Patricia Simpson and Gary and Maxine Marlow. Tax lots 1000 through 1005. Tax lot 1002 is not part of this claim.
- Unrecorded Land Sale Contract dated April 1964. From Kearney and Patricia Simpson and Gary and Maxine Marlow to Thomas Marlow. Taxlot 1005.
- Bargain and Sale Deed #8214116 dated March 3, 1982. From Gary and Maxine Marlow and Kearney and Patricia Simpson to Thomas Marlow. Taxlot 1005.
- Bargain and Sale Deed dated March, 1982. Not recorded or notarized. From Thomas Marlow to Gary and Maxine Marlow and Kearney and Patricia Simpson. Taxlot 1005.
- Bargain and Sale Deed #7318801 dated March 27, 1973. From Gary and Maxine Marlow and Kearney and Patricia Simpson to Jerry Dilley. Taxlots 1001, 1003 and 1004. Tax lot 1004 is currently owned by Gale Miller and is not part of this claim.



Marlow M37 Claim  
PA06-5346



**Legend**

- Roads
- Marlow
- - - Stream



0 250 500 1,000 1,500 Feet

## **1. INTRODUCTION.**

The applicants, Gary and Maxine Marlow, husband and wife, and Kearney and Patricia Simpson, husband and wife, 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 forty acres in size.

The applicants obtained their interest in the subject property on March 25, 1963, and have owned the subject property continuously since that time. Lane County had an adopted zoning ordinance on March 25, 1963, but did not exercise its authority to zone the subject property at that time. 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 40 (E40). That zoning, as applied by LC 16.212, will not permit land divisions below 40 acres in size for the resulting parcels and will not permit the placement of dwellings on the subject parcels except under very limited circumstances.

## **2. BACKGROUND INFORMATION.**

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

The property subject to this application consists of four adjacent parcels, one approximately 4.09 acres in size, one approximately 11.77 acres in size, one approximately 24.49 acres in size and another approximately 26.51 acres in size. The subject property is located southeast of the community of Pleasant Hill off of Jasper-Lowell Road.

The subject property is described as Tax Lots 1000, 1001, 1003 and 1005 of Lane County Assessor's Map No. 18-01-32-00.

The subject property is undeveloped and vacant.

The subject property receives the following public services: Lowell School District No. 71 (schools); Emerald Peoples Utility District (electrical power); Lowell 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. 18-01-32-00

Exhibit B - Legal Description

Exhibit C - Lane County Application Form

Exhibit D - Kann Warranty Deed  
Exhibit E - Unrecorded Land Sale Contract  
Exhibit F - Marlow/Simpson Bargain and Sale Deed to Marlow  
Exhibit G - Unrecorded Marlow Bargain and Sale Deed  
Exhibit H - Marlow/Simpson Bargain and Sale Deed to Dilley  
Exhibit I - Affidavit of Jerry Dilley  
Exhibit J - Affidavit of Thomas U. Marlow  
Exhibit K - Marlow Property Tax Payments  
Exhibit L - Lane County Official Zoning Map Plot 516  
Exhibit M - Land Use Ordinance #4.  
Exhibit N - Relevant Portions of Lower Middle Fork Subarea Plan  
Exhibit O - Zoning and Land Use Ordinance 638  
Exhibit P - 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 owners of the subject property.

**Lane Code 2.720 also contains the required items for a completed 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 owners of the subject property, free and clear of all encumbrances. The names, mailing addresses and phone number of all individuals holding interests in the property are as follows:

Gary and Maxine Marlow, 38817 Place Road, Fall Creek, OR 97438, (541) 937-2651;  
Kearney and Patricia Simpson, 39297 Place Road, Fall Creek, OR 97438, (541) 937-2645;  
Jerry Dilley, 85065 Renegade Lane, Fall Creek, OR 97438, (541) 726-0549;

Thomas U. Marlow, 1932 Woodson Loop, Eugene, OR 97405, (541) 344 7086.

The applicants' names, mailing addresses and phone numbers are also provided in the application form attached hereto. The applicants have signed the application form attached hereto as Exhibit C.

The interests of the applicants are as follows. The applicants are the owners of the legal and beneficial interests of Tax Lots 1000 and 1003. The applicants are the owners of the beneficial interests of Tax Lots 1001 and 1005. The applicants are the beneficiaries of a "resulting trust" in regards to the latter two tax lots.

The applicants purchased the subject property (all four tax lots) on March 25, 1963. On that date, the applicants purchased the subject property from Jennie Kann. On that date, Ms. Kann conveyed the fee interest in the subject property to the applicants by Warranty Deed. A copy of the Kann deed to the applicants is attached as Exhibit D. On March 25, 1963, the subject property was configured as four parcels. Those four parcels remain configured today as they were on March 25, 1963.

Following purchase of the subject property, the applicants were advised to convey the legal interest in two of the parcels to trusted individuals for the purpose of avoiding a merger of the four parcels into one parcel by Lane County or operation of law. In an attempt to insure the continued configuration of the subject property, and the continuation of the four parcels, the applicants conveyed the legal interest, but not the beneficial interest, in Tax Lots 1003 and 1005 to Thomas U. Marlow and Jerry Dilley.

The applicants entered into an unrecorded land sale contract with Mr. Marlow in April of 1964, a copy of which is attached as Exhibit E. Mr. Marlow had an equitable, but not beneficial, interest in Tax Lot 1005 following execution of the land sale contract. The applicants conveyed the legal interest, but not the beneficial interest, in Tax Lot 1005 to Mr. Marlow, by recorded Bargain and Sale Deed, on March 3, 1982, a copy of which is attached as Exhibit F. On that same date, Mr. Marlow delivered to the applicants an unrecorded Bargain and Sale Deed conveying all of his interest in Tax Lot 1005 to the applicants, a copy of which is attached as Exhibit G. The applicants and Mr. Marlow intended that his Bargain and Sale Deed was to be held by the applicants for immediate recording and conveyance prior to Mr. Marlow's anticipated death or immediately upon Mr. Marlow's untimely death.

The applicants conveyed the legal interest, but not the beneficial interest, in Tax Lot 1003 to Mr. Dilley, by Bargain and Sale Deed, on March 27, 1973, a copy of which is attached as Exhibit H.

Jerry Dilley is a long-term friend of both the Marlow and Simpson families. Thomas U. Marlow is the brother of both Gary Marlow and Patricia Simpson. The applicants intended to convey to Mr. Dilley and Mr. Marlow only the legal interest in the two parcels; the applicants retained the beneficial interest in both parcels. Mr. Dilley and Mr. Marlow paid no consideration for the applicants' purchase of the subject property from Jennie Kann. No consideration has been transferred from Mr. Dilley or Mr. Marlow to the applicants for the conveyance of the legal interest in the two parcels. The intent of the parties was that the applicants were to continue as the true owners of the property following the conveyances and that Mr. Dilley and Mr. Marlow were to merely hold an ownership interest or title to the property for the benefit of the applicants.

Attached to this application are the affidavits of Jerry Dilley and Thomas U. Marlow (attached as Exhibits I, and J), each of which contains their statements consistent with the intent of all of the parties to convey the legal interest, but not the beneficial interest, in the two parcels to Mr. Dilley and Mr. Marlow.

The applicants have paid all of the property taxes on both parcels since the original purchase in 1963. Attached as Exhibit K are representative examples of property tax payments made to Lane County by Gary and Maxine Marlow for the two parcels.

The documents and materials contained in Exhibits D – K attached to this application provide evidence of the intent of the parties relative to the ownership of all four tax lots that comprise the subject property. The intent of the parties has been and remains that the applicants are the true owners of the subject property and that Mr. Dilley and Mr. Marlow are merely holding the legal interest in Tax Lots 1003 and 1005 for the benefit of the applicants who continue to own the beneficial interest in the property, awaiting reconveyance of the legal interest to the applicants upon their request.

The applicants' transfer of the legal interest, but not the beneficial interest, in Tax Lots 1003 and 1005 to Jerry Dilley and Thomas U. Marlow constitutes the creation of a "resulting trust" under Oregon law. The Oregon Supreme Court decision in Shipe et al. v. Hillman, 206 Or 556, provides that Oregon law recognizes the concept of resulting trusts as stated in the Restatement of Trusts Section 455. In Shipe, the Court stated:

"A resulting trust arises where property is transferred under circumstances which give rise to an inference that the person who makes the transfer, or causes it to be made, does not intend the transferee to take the beneficial interest in the property." 206 Or 556, 564.

Citing 54 Am Jur Trusts, Section 233, the Court further stated:

"A constructive trust arises where a conveyance is induced on the agreement of a fiduciary or confidant to hold in trust for a reconveyance or other purpose, where the fiduciary or confidential relationship is one upon which the grantor can justifiably can and does rely..." 206 Or 556, 565.

The applicants have provided the requisite evidence to demonstrate that they are the true owners of the subject property and that they have remained the true owners of the subject property since their purchase of it on March 25, 1963.

**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 18-01-32-00. The subject property does not have a street address.

**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:**

See discussion of 3.1.b. above.

**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 40 Acre Minimum (E40) as depicted on Lane County Official Zoning Map Plot 516, adopted by Lane County as part of Ordinance 884 on February 29, 1984. A copy of Plot 516 is attached as Exhibit L and a copy of Ordinance 884 is attached as Exhibit M. 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 forty acres for the creation of new lots or parcels in the Exclusive Farm Use Zone on property designated as E40 on Lane County Zoning Maps. Those Lane Code provisions and Zoning Map Plot 516 prevent the applicants from subdividing their property into residentially buildable parcels less than 40 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 May 31, 1949, the Lane County Court approved Land Use Ordinance #4 which established a basis to zone land in Lane County. A copy of the first and last page of that ordinance is attached as Exhibit M. Lane County did not exercise its authority under that ordinance to zone the subject property. Consequently, from the March 25, 1963, purchase date of the applicants until 1977, the subject property was not zoned.

On November 27, 1974, subsequent to the dates the applicants and Mr. Marlow and Mr. Dilley obtained their interests in the subject property, the Lane County Board of Commissioners adopted the Comprehensive Land Use Plan for the Lower Middle Fork Subarea that designated the subject property as "Rural Woodland & Grazing." Copies of the relevant portions of that plan are attached as Exhibit N.

On November 2, 1977, the Lane County Board of Commissioners adopted Ordinance No. 638, which zoned the subject property as Farm Forest FF20. Copies of relevant portions of that ordinance are attached as Exhibit O.

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, E40, which it remains today. A copy of that ordinance is attached as Exhibit M.

If the aforementioned Lane County regulations did not exist, or were consistent with provisions of Lane County regulations preceding March 25, 1963, the value of the applicants' property would be considerably higher if divided into one-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, Zoning Map Plot 516 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 restricted and as if configured into buildable one-acre parcels. Mr. McKern's appraisals are attached hereto as Exhibit P.

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 40 Acre Minimum (E40) as depicted on Lane County Official Zoning Map Plot 516, 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 forty acres for the creation of new lots or parcels in the Exclusive Farm Use Zone on property designated as E40 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:**

Ordinance 884 and Zoning Map Plot 516 were adopted on February 29, 1984, subsequent to the applicants and Mr. Marlow and Mr. Dilley obtaining their interests in the subject property. 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 \$3,550,000, 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 less than 40 acres in size. The claimed sum is the total for the subject parcels, Tax Lots 1000, 10001, 1003 and 1005 of Lane County Assessor's Map No. 18-01-32-00.

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 \$4,000,000. Mr. McKern's appraisal is conservative, limited by his taking into account the various flood zone designations on portions of the four parcels. Mr. McKern appraised the property under a scenario containing only 40 one-acre lots on the subject property's approximately 65 total acres. Mr. McKern applied a figure of approximately 25 acres for roadways, setbacks, buffer zones, riparian zones and other possible common area uses and appraised the 25 acres at only \$2,000 per acre. Mr. McKern's appraisal of the "before" development scenario, while conservative, contains enough diminution in development potential and value on the 25 acres to more than cover any development costs associated with building in the flood zones. 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 \$450,000. The reduction in fair market value of the subject property resulting from Lane County's restrictions on its use totals at least \$4,000,000, 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 40-acre minimum parcel sizes and that the restrictions reduce 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 forty acres in size.

FOR ASSESSMENT  
AND TAXATION  
ONLY

SEC. 32 T.18S. R.1W. W.M.  
LANE COUNTY

SCALE 1" = 400'

SEE MAP 18 01 29

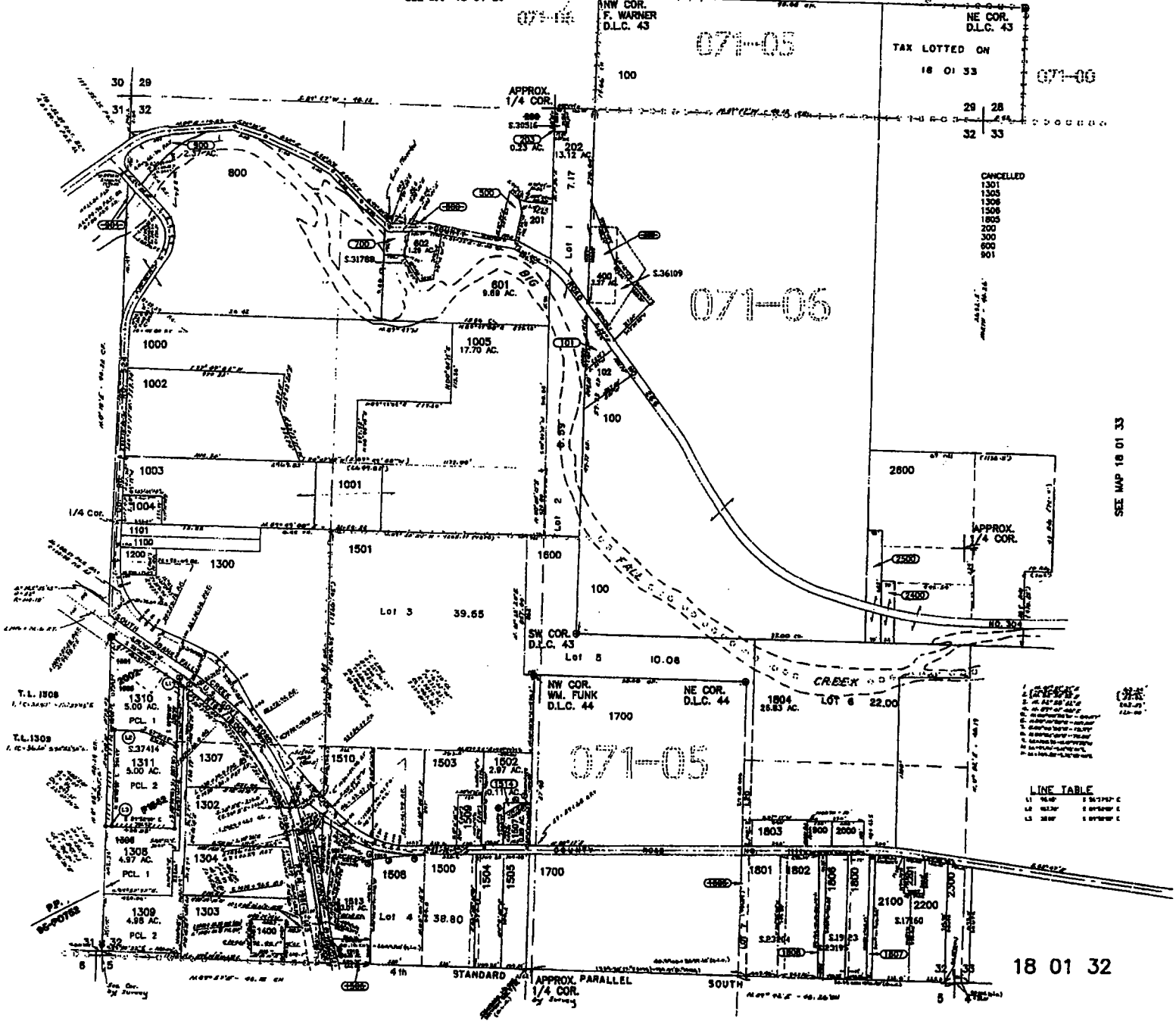
| DATE | REASON | DISTRICT |
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18 01 32

NAD 83/91

SEE MAP 18 01 31

SEE MAP 18 01 33



SEE MAP 19 01 05

EXHIBIT A

**Exhibit B**

**Legal Description**

**South one-half (1/2) of the Northwest one-quarter (1/4) of Section 32, Township 18 South, Range 1 West of the Willamette Meridian, in Lane County, Oregon.**

PA065346

Measure 37 Claim Number: M37-

**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**

|                                      |                                        |                |
|--------------------------------------|----------------------------------------|----------------|
| Gary and Maxine Marlow               | 38817 Place Road, Fall Creek, OR 97438 | (541) 937-2651 |
| Kearney and Patricia Simpson         | 39297 Place Road, Fall Creek, OR 97438 | (541) 937-2645 |
| <u>Applicant Name (Please Print)</u> | <u>Mailing Address</u>                 | <u>Phone</u>   |
| Steve Cornacchia                     | 180 E. 11th Avenue, Eugene, OR 97401   | (541) 686-8511 |
| <u>Agent Name (Please Print)</u>     | <u>Mailing Address</u>                 | <u>Phone</u>   |

**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.

Same as above, and:

|                                           |                                           |                |
|-------------------------------------------|-------------------------------------------|----------------|
| Thomas U. Marlow                          | 1932 Woodson Loop, Eugene, OR 97405       | (541) 344-7086 |
| <u>Property Owner Name (Please Print)</u> | <u>Mailing Address</u>                    | <u>Phone</u>   |
| Jerry Dilley                              | 85065 Renegade Lane, Fall Creek, OR 97438 | (541) 726-0549 |
| <u>Property Owner Name (Please Print)</u> | <u>Mailing Address</u>                    | <u>Phone</u>   |

**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 18-01-32-00 Tax Lots 1000, 1001, 1003 and 1005

Street Address None 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).

See narrative attached.

**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.

See Exhibits D through H

**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.

See Exhibit O attached.

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

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

None

**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.

Monetary Claim: \$3,550,000

Waiver: Use and lot size regulations preventing residential use on parcels less than 40 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).

*Gary L. Marlow and Maxine H. Marlow*  
\_\_\_\_\_  
Gary L. Marlow and Maxine H. Marlow  
*Kearney J. Simpson and Patricia J. Simpson*  
\_\_\_\_\_  
Kearney J. Simpson and Patricia J. Simpson  
*Thomas U. Marlow*  
\_\_\_\_\_

Owner(s) Signature Thomas U. Marlow

2-16-06  
Date

*Jerry Dille*  
\_\_\_\_\_  
Jerry Dille

*Steve [unclear]*  
\_\_\_\_\_  
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.

# WARRANTY DEED

For Value Received

JENNIE KANN, a single person,

the grantor, does hereby grant, bargain, sell and convey unto

KEARNEY SIMPSON and PATRICIA J. SIMPSON, husband and wife, and  
GARY L. MARLOW and MAXINE H. MARLOW, husband and wife,  
the grantees, the following described premises, to wit:

REVENUE STAMPS

South one-half ( $\frac{1}{2}$ ) of the Northwest one-quarter  
( $\frac{1}{4}$ ) of Section 32, Township 18 South, Range 1  
West of the Willamette Meridian, in Lane County,  
Oregon.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,  
their heirs and assigns forever. And the said Grantor does hereby covenant to and  
warrant unto the said Grantees that she is the owner in fee simple of said premises; that they are  
free from all incumbrances, excepting easements and restrictions of record.

and that she will warrant and defend the same from all lawful claims whatsoever.

Dated March 23, 1963

(SEAL)

Jennie Kann (SEAL)

(SEAL)

(SEAL)

STATE OF OREGON, COUNTY OF LANE, ss:

On this 25th day of March, 1963

personally came before me, a Notary Public in and for said  
county, the within named

JENNIE KANN, a single person,

known to be the identical person de-  
scribed in the within instrument, and  
she executed the same. She executed the same  
for the uses and purposes therein

and seal this day and year set above



*[Signature]*

My commission expires

Mar 30, 1963

State of Oregon,  
County of Lane—ss.  
I, Ina Randolph, Director of the  
Department of Records and Elections,  
in and for the said County, do hereby  
certify that the within instrument was  
received for record at

1239 June 3 11 12 7

Room 440 + R. 1

Lane County OFFICIAL RECORDS

INA RANDOLPH, Director of the  
Department of Records & Elections.

By *[Signature]* Deputy

029-041-05

Buy 1/2 interest

EXHIBIT E

LAND SALE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: That GARY L. AND MAXINE H. MARLOW husband and wife, and KEARNEY SIMPSON and PATRICIA J. SIMPSON, husband and wife, hereinafter referred to as sellers, and THOMAS U. MARLOW, hereinafter referred to as buyer, for and in consideration of the mutual promises and covenants hereinafter contained do hereby agree as follows:

1. The sellers hereby agree to sell and the buyer hereby agrees to purchase the following described real property at the price and on the terms hereinafter set forth.

Beginning at a point south 0° 05' 15" West 1330.88' from the North ¼ corner of Section 32, Township 185, Range 1 West, Willamette Meridian, run thence South 0° 05' 15" West, 910.88'; thence South 89° 49' 08" West 1173.00' : thence North 0° 05' 15" East 397.52'; thence North 89° 49' 08" East 579.6' thence North 0° 05' 15" East 513.36' thence North 89° 49' 08" East 593.4' to the place of beginning in Lane County, Oregon

2. As the purchase price for said real property the buyer agrees to pay and bind his heirs and legal representatives to pay the sellers the sum of FIVE THOUSAND FOUR HUNDRED and NO CENTS (\$5,400.00) in the following manner: The sum of Four hundred dollars and no cents (\$400.00) upon the execution hereof, receipt of which is hereby acknowledged by sellers, and the balance of Five thousand dollars and no cents (\$5,000.00) payable at the rate of Twenty-five dollars and no cents (\$25.00) monthly plus interest at the rate of five percent (5%) per annum, interest to commence May 1, 1964, the first payment of principal and interest being due and payable on June 1, 1964, and subsequent payments of principal and interest being due and payable on the first day of each month there-

after until principal and interest are fully paid. The payments herein provided for shall be applied first to the payment of interest on the unpaid principal balance, then toward the payment of the principal.

3. Upon receipt of final payment a deed for said real property will be executed by the sellers and delivered to the buyer, free and clear from encumbrances except easements and restrictions of record.

4. Buyer shall have possession of said premises from May 1, 1964 so long as they comply with the terms of this agreement.

5. Buyer agrees to pay their pro rata share of the 1964-1965 real property taxes and to pay promptly as the same become due all taxes or assessments of any nature which may hereafter become due and payable against said premises during the life of this contract and that they will keep said premises free and clear from all other liens of every kind which would take precedence over the sellers interest therein. In the event that the buyer shall fail to pay said taxes or any other lien as above stated, sellers shall have the right to pay said taxes or lein and to add the cost thereof to the unpaid principal balances, and the same shall bear interest in the same rate as the principal balance.

6. All future erections or additions to or upon the premises shall not be removed therefrom until the terms of this contract have been fully met

7. Buyer shall not suffer or commit any strip or wast on said premises.



8. Any waiver of any breach of any provision thereof to be kept and performed by the buyers shall not be deemed a continuing waiver or a waiver of the provision itself and shall not operate to bar or prevent the sellers from declaring a forfeiture for any succeeding breach of any such provision or otherwise.

9. Time is of the essence of this contract and in case the buyer shall fail to make any of the payments above provided in the manner and at the time above specified or within ten (10) days thereafter of shall fail to comply with any other provision of this contract, then the buyer shall be in default. Sellers may thereupon give buyer notice of said default by registered or certified mail at buyers last known address and buyer shall thereupon have twenty days within which to cure said default. In the event that buyer shall fail to cure said default within said period, then this contract shall at the option of the sellers be thenceforth null and void and sellers may declare a forfeiture of the premises and all rights and interest created herein or existing in favor of the buyer shall revert and revest in the sellers without any act of re-entry or any other act of the sellers and without right of the buyer to the return of any money paid on account of the purchase of said property as above stated, as fully and perfectly as if the contract and such payments had never been made, and all payments theretofore made on account of this contract shall be forfeited to, retained by, and belong to the sellers as the agreed reasonable rental of said premises up to the time of such default. Sellers shall have the right, in

case of default, immediately or at any time thereafter, to enter upon the land above described without any process of law and take immediate possession thereof, together with all improvements and appurtenances thereunto belonging.

10. In the event of the failure of buyers to comply with the terms of this contract, sellers may at their option elect to declare the whole of said purchase price due and proceed at once to strictly foreclose this contract in equity. In case suit or action is instituted to foreclose this contract or to enforce any provision thereof, the prevailing party shall be entitled to such sums as the Court may adjudge reasonable for attorney's fees in such suit or action, in addition to the statutory costs and disbursements.

IN WITNESS WHEREOF, the parties have hereunto set their hands this \_\_\_\_\_

day April 1964.

SELLERS

Kearney Simpson  
Patricia J. Simpson  
Charles W. Simpson  
Marion H. Simpson

BUYER

Thomas U. Marlow

BARGIN AND SALE DEED

GARY L. and MAXINE H. MARLOW, husband and wife, and KEARNEY and  
 PATRICIA J. SIMPSON, husband and wife, convey to THOMAS U. MARLOW  
 all that real property situated in Lane County, State of Oregon  
 described as;

N 3 • 15 • 82 1027 0004:00

Beginning at a point south 0° 05' 15" West 1330.88' from  
 the North ¼ corner of Section 32, Township 185, Range 1 West,  
 Willamette Meridian, run thence South 0° 05' 15" West,  
 910.88' Thence South 89° 49' 08" West 1173.00'; thence North  
 0° 05' 15" East 397.52'; thence North 89° 49' 08" East 579.6'  
 thence North 0° 05' 15" East 513.36' thence North 89° 49' 08"  
 East 593.4' to the place of beginning in Lane County, Oregon.

The true and actual consideration for this transfer  
 is \$5,400.00

The foregoing recital of consideration is true as I verily  
 believe.

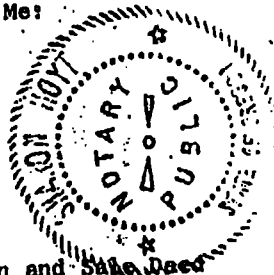
DATED this 3 day March 1982

Gary L. Marlow Kearney Simpson  
 Gary L. Marlow Kearney Simpson  
Maxine H. Marlow Patricia J. Simpson  
 Maxine H. Marlow Patricia J. Simpson

STATE OF OREGON

COUNTY OF LANE

Personally appeared the above-named KEARNEY SIMPSON and PATRICIA  
 J. SIMPSON AND GARY L. and MAXINE H. MARLOW and acknowledged the  
 foregoing instrument to be their voluntary act.  
 Before Me:



Sharon Hoyt  
 Notary Public for Oregon  
 My commission expires 12/13/84

Bargain and Sale Deed

EXHIBIT G

BARGAIN AND SALE DEED

THOMAS U. MARLOW, convey to GARY L & MAXINE H. MARLOW, husband and wife, & KEARNEY SIMPSON & PATRICIA J. SIMPSON, husband and wife, all that real property situated in Lane County, State of Oregon described as:

Beginning at a point south 0° 05' 15" West 1330.88' from the North ¼ corner of Section 32, Township 185 Range 1 West, Willamette Meridian, run thence South 0° 05' 15" West, 910.88' Thence South 89° 49' 08" West 1173.00': thence North 0° 05' 15" East 513.36' thence North 89° 49' 08" East 593.4' to the place of beginning in Lane County, Oregon.

The true and actual consideration for this transfer is \$ \_\_\_\_\_

The foregoing recital of consideration is true as I verily believe.

DATED this \_\_\_\_\_ day of March, 1982.

*Thomas U. Marlow*

\_\_\_\_\_  
THOMAS U. MARLOW

STATE OF OREGON

County of Lane

Personally appeared the above named THOMAS U. MARLOW and acknowledged the foregoing instrument to be his voluntary act.

Before me.

\_\_\_\_\_  
Notary public for Oregon  
My commission expires \_\_\_\_\_

BARGAIN & SALE DEED

THOMAS U. MARLOW, convey to MARC A. MARLOW all that real property situated in Lane County, State of Oregon described as:

The true and actual consideration for this transfer is \$ \_\_\_\_\_.

The foregoing recital of consideration is true as I verily believe.

DATED this \_\_\_\_\_.

*Thomas U. Marlow*

\_\_\_\_\_  
THOMAS U. MARLOW

STATE OF OREGON

County of Lane

Personally appeared the above named THOMAS U. MARLOW and acknowledged the foregoing instrument to be his voluntary act.

Before me.

\_\_\_\_\_  
Notary public for Oregon

May commission expires \_\_\_\_\_ - \_\_\_\_\_