

W. 15.0.



Lane County

LAND MANAGEMENT DIVISION
125 EAST 8TH AVENUE
EUGENE, OREGON 97401
PHONE: 541-682-3823
FAX: 541-682-3947

AGENDA COVER MEMO

MEMO DATE: May 16, 2006

AGENDA DATE: May 24, 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 05-6658, Sutley 1402)

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 Sharon Sutley to use the property as could have been allowed at the time they acquired the property?

III. DISCUSSION

A. Background

Applicant: Gary Sutley

Current Owner: Gary and Sharon Sutley

Agent: none

Legal Description of Property: 18-04-06 #1402

Acreage: 35 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired by Sutley family: September 18, 1979

Date claim submitted: November 14, 2005. (The 180-day deadline is May 13, 2006)

Land Use Regulations in Effect at Date of Acquisition: AGT (Agriculture, Grazing and Timber), LC 10.110

Reduction in Fair Market Value

The applicant has submitted an appraisal by a certified real estate appraiser. Based on the appraisal, the existing 35 acres is worth \$104,700. If the property was developed with a single family dwelling, the value would be \$575,000. This appraisal assumes the current E40 zone prevents a dwelling on this property. The Board will need to determine if the appraisal is reasonable and competent evidence that demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation.

Exempt Regulations

The E40 (Exclusive Farm Use) zone limitations on new dwellings does not appear to be exempt regulations described in Measure 37 or LC 2.710.

E. Conclusion/County Administrator 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 the Board waive the E40 (Exclusive Farm Use) zone regulations that require a special use permit for a new dwelling.

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 is reasonable and competent, the County Administrator recommends alternative #1.

VI. ATTACHMENTS

Order to approve the Measure 37 claim of Gary and Sharon Sutley.

Written claim dated November 14, 2005.

Vicinity Map.

Title report dated October 27, 2005.

Bargain & Sale Deed 7956459, dated September 18, 1979.

Appraisal report dated October 27, 2005.

**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 (Gary and Sharon Sutley/
) PA05-6658).

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 Sharon Sutley (PA05-6658), the owners of real property described in the records of the Lane County Assessor as map 18-04-06, tax lot 1402, 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 May 24, 2006, the Board conducted a public hearing on the Measure 37 claim (PA05-6658) of Gary and Sharon Sutley and has now determined that the restrictive E40 (Exclusive Farm Use) zone dwelling requirements of LC 16.212 were enforced and made applicable to prevent Gary and Sharon Sutley from developing the property as might have been allowed at the time it was acquired on September 18, 1979, 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 Sharon Sutley request either \$470,000 as compensation for the reduction in value of their property, or waiver of all land use regulations that would prevent the placement of a single family dwelling, a use that could have otherwise been allowed at the time they acquired 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 Sharon Sutley 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 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 applicant Gary and Sharon Sutley 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 Sharon Sutley shall be granted and the restrictive provisions of LC 16.212 that prevent the development of a new dwelling in the E40 (Exclusive Farm Use) Zone shall not apply to Gary and Sharon Sutley, so that they can make application for approval to develop the property described in the records of the Lane County Assessor as map 18-04-06, tax lot 1402, in a manner consistent with the land use regulations in effect when they acquired the property on September 18, 1979.

IT IS HEREBY FURTHER ORDERED that Gary and Sharon Sutley 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 Sharon Sutley as restricting the placement of a dwelling, 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 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 Sharon Sutley 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 5-16-2006 Lane County



OFFICE OF LEGAL COUNSEL

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, Dr., 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>Gary Sutley</u>	<u>P.O. Box 295 Dexter, OR 97434</u>	<u>(541) 937-2283</u>
Applicant Name (Please Print)	Mailing Address	Phone
<hr/>	<hr/>	<hr/>
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>Gary V. Sutley</u>	<u>P.O. Box 295 Dexter, OR 97434</u>	<u>(541) 937-2283</u>
Property Owner Name (Please Print)	Mailing Address	Phone
<hr/>	<hr/>	<hr/>
<u>Sharon E. Sutley</u>	<u>P.O. Box 295 Dexter, OR 97434</u>	<u>(541) 937-2283</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 880406 Tax Lot 1402

Street Address None. Off of Crow Rd. near the intersection of Dukhobar Rd. 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).

LC 16.212 and the Lane County Rural Comprehensive Plan diagram and Goal 3 Policies.

These regulations were first adopted and applied to the subject property on March 30, 1984.

See Gary Sutley Attachment 1, James A. Mann LLC History of L. C. Land Use Regulations Report

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 Gary Sutley Attachment 2, Evergreen Land Title Co. Preliminary Title Report

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 Gary Sutley Attachment 3, Chris S. Bell, SRA, Appraisal of the Subject Property

Before the challenged regulations the estimated market value is "\$575,000". After the challenged regulations the estimated market value is \$104,700.

7. Leases, Covenants, Conditions and Restrictions

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

See Gary Sutley Attachment 1, Evergreen Land Title Co. Preliminary Title Report

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.

The relief sought is a waiver of the regulations, mentioned in 4., above, and the ability to have a dwelling and accessory residential, farm and forest structures and uses on the subject parcel.

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).

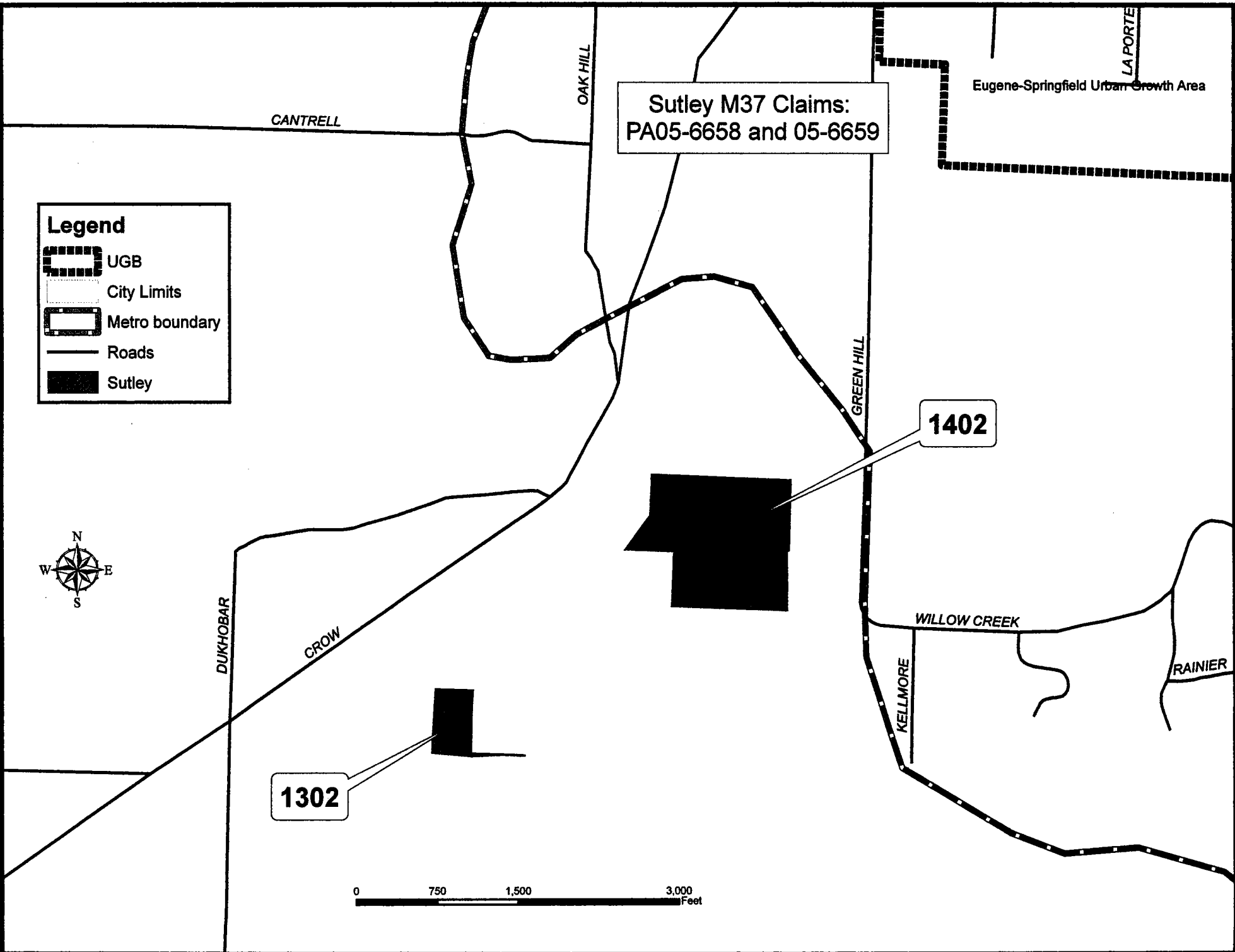
Gary Sutley
Owner(s) Signature

11-14-05
Date

Applicant/Agent Signature

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.





Evergreen

Land Title Company

PRELIMINARY TITLE REPORT

TO: GARY SUTLEY
P.O. BOX 295
DEXTER, OREGON 97431

RE: SUTLEY

Order reports and listing kits online at (www.evergreenlandtitle.com)

October 27, 2005

ELT-45069

Main Office:

1570 Mohawk Boulevard
Springfield, OR 97477

Phone # (541) 741-1981 **Fax #** (541) 741-0619

Branch Office:

1509 Willamette Street
Eugene, OR 97401

Phone # (541) 687-9794 **Fax #** (541) 687-0924

MAIN OFFICE

1570 MOHAWK BLVD. • SPRINGFIELD, OR 97477
P.O. BOX 931 • SPRINGFIELD, OR 97477
PHONE: 541.741.1981
FAX: 541.741.0619



BRANCH OFFICE

1509 WILLAMETTE ST. • EUGENE, OR 97401
P.O. BOX 10211 • EUGENE, OR 97440
PHONE: 541.687.9794
FAX: 541.687.0924

4th SUPPLEMENTAL TITLE REPORT

October 27, 2005

ELT-45069

Gary Sutley
P.O. Box 295
Dexter, Oregon 97431

Estimated Premium for:		
TO COME	OWNER'S POLICY	\$200.00
	ADDITIONAL CHAIN	\$100.00
	Gov't Service Fee	WAIVED
TOTAL		\$300.00

Dear Gary:

We are prepared to write Title Insurance covering the following described premises to-wit:

SEE ATTACHED

Showing fee simple title as of October 20, 2005, at 8:00 a.m., vested in:

GARY V. SUTLEY AND SHARON E. SUTLEY,
as tenants in common

Subject to the usual printed exceptions, and

1. Taxes, Map No. 18-04-06-00-01402, Code 04-15, Account No. 1301942, 2005-2006, a lien in the amount of \$10.82, now payable.

Taxes, Map No. 18-04-06-00-01302, Code 04-01, Account No. 1302627, 2005-2006, a lien in the amount of \$21.69, now payable.

Taxes, Map No. 18-04-06-00-01402, Code 04-01, Account No. 1301934, 2005-2006, a lien in the amount of 25.52, now payable.

CONTINUED

2. The Assessment Roll and the Tax Roll disclose that the premises herein described have been specially assessed as Farm Use Land. If the land becomes disqualified for the special assessment under the statute, an additional tax may be levied and in addition thereto a penalty may be levied if notice or disqualification is not timely given.

“This report (policy) does not include any search for financing statements or agricultural services, liens which are filed with the Secretary of State and any matters which would be disclosed, thereby are expressly omitted from coverage herein.”

3. Deed of Trust, including the terms and provisions thereof, executed by Gary V. Sutley and Sharon E. Sutley, husband and wife, as Grantor(s), to Willamette Valley Title Company, as Trustee, for the benefit of Queen City Savings and Loan Association, as Beneficiary, Dated April 18, 1983, Recorded April 25, 1983, Reel 1242R, Reception No. 83-13058, Official Records of Lane County, Oregon, given to secure payment of a Note for \$240,000.00. (Parcel 2)

The beneficial interest in said Deed of Trust was assigned to Saguaro, Inc., a New Mexico corporation, by mesne assignments, the last of which Recorded January 4, 1988, Reception No. 88-00102, Lane County Oregon Records.

4. Deed of Trust, including the terms and provisions thereof, executed by Gary V. Sutley and Sharon E. Sutley, husband and wife, as Grantor(s), to Willamette Valley Title Company, as Trustee, for the benefit of Queen City Savings and Loan Association, as Beneficiary, Dated June 30, 1983, Recorded July 1, 1983, Reception No. 83-22985, Official Records of Lane County, Oregon, given to secure payment of a Note for \$1,000,000.00. (Parcel 1)

Richard H. Busby, was appointed Successor Trustee, by instrument Recorded February 20, 1987, Reel 1446R, Reception No. 87-07924, Lane County Oregon Records.

The beneficial interest in said Deed of Trust was assigned to Saguaro, Inc., a New Mexico corporation, by mesne assignments, the last of which Recorded January 4, 1988, Reception No. 88-00101, Lane County Oregon Records.

5. Judgement against Gary V. Sutley, in favor of Account Collection Bureau Inc., entered May 16, 2001, Lane County Circuit Court Case No. 169602705, in the amount of \$9,999.00 Judgement Costs, \$122.00 Court Costs. (Includes \$550.00 pre-judgement interest)

NOTE: The address of the property to be insured herein is: NOT KNOWN.

NOTE: A JUDGEMENT/LIEN SEARCH was done for the name(s) SHARON E. SUTLEY, and as of October 20, 2005, none were found.

NOTE: Said property lies outside the city limits, therefore, is not subject to city liens.

INFORMATIONAL NOTE: Off record information indicates that Gary V. Sutley was awarded the property as described herein in Dissolution of Marriage proceedings, Filed August 14, 1996, Circuit Court Case No. 15-96-07218, however Evergreen Land Title Company finds no constructive notice recorded in Lane County Oregon Deed Records.

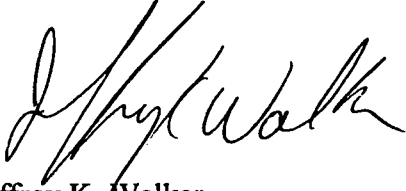
C O N T I N U E D

NOTE: SUPPLEMENTED TO UPDATE REPORT.

Very truly yours,

EVERGREEN LAND TITLE COMPANY
HOME OFFICE

By:

A handwritten signature in black ink, appearing to read "Jeffrey K. Walker". The signature is written in a cursive style with a large initial "J" and "W".

Jeffrey K. Walker
Advisory Title Officer

NO LIABILITY IS ASSUMED HEREUNDER UNTIL POLICY IS ISSUED AND PREMIUM PAID. IF FOR ANY REASON THE REPORT IS CANCELLED, A MINIMUM CANCELLATION FEE OF \$200.00 WILL BE CHARGED.

PARCEL 1:

A parcel of land in the Southwest ¼ of Section 6, Township 18 South, Range 4 West of the Willamette Meridian, said parcel being a portion of that property described on that Deed Recorded on Reel 600, Reception No. 15260, Lane County Oregon Deed Records, said parcel being more particularly described as follows:

Beginning at a point on the South line of said Section 6, said point bears North 88° 09' 25" West 458.69 feet from the South ¼ corner of said Section 6; thence North 88° 09' 25" West 868.02 feet; thence North 1° 50' 35" East 600.00 feet; thence South 88° 09' 25" East 365.00 feet; thence South 1° 50' 35" West 580.00 feet; thence South 88° 09' 25" East 502.99 feet; thence South 1° 44' 49" West 20.00 feet to the Point of Beginning, all in Lane County, Oregon.

TOGETHER WITH an easement for roadway and utility purposes over the following described parcel of land:

Beginning at the stone marking the South one-quarter corner of Section 6, Township 18 South, Range 4 West of the Willamette Meridian; thence North 89° 56' 48" West 458.69 feet along the South line of said Section 6 to the True Point of Beginning; thence North 0° 02' 34" West 2238.86 feet to a point on the South right-of-way line of County Road No. 988 (commonly known as Crow Road); thence North 53° 52' 34" East 74.24 feet along said Southerly right-of-way line to a point marked by an iron pin; thence South 0° 02' 34" East 2282.67 feet; thence North 89° 56' 48" West 60 feet to the Point of Beginning, in Lane County, Oregon.

PARCEL 2:

A parcel of land in the Southeast ¼ of Section 6, Township 18 South, Range 4 West of the Willamette Meridian, said parcel being a portion of that property described in that Deed Recorded in Book 278, Page 529, Lane County Oregon Deed Records, said parcel being more particularly described as follows:

Commencing at the East ¼ corner of said Section 6; and running thence North 87° 50' 03" West 680.00 feet to the Point of Beginning; thence South 1° 27' 27" West 660.00 feet; thence North 87° 50' 03" West 3.10 feet; thence South 1° 27' 27" West 556.33 feet; thence North 88° 02' 55" West 1090.42 feet; thence North 2° 09' 57" East 506.02 feet; thence North 87° 50' 03" West 457.00 feet; thence North 36° 05' 34" East 400.00 feet; thence North 2° 09' 57" East 382.40 feet to a point on the East-West center of section line of said Section 6; thence along said line South 87° 50' 03" East 1312.22 feet to the Point of Beginning, all in Lane County, Oregon.

PARCEL 2: continued ...

ALSO: An easement for the purpose of ingress and egress over the Northerly 50.00 feet of the following described land:

Commencing at the East $\frac{1}{4}$ corner of said Section 6; and running thence North $87^{\circ} 50' 03''$ West 1992.22 feet to the Point of Beginning; thence South $2^{\circ} 09' 57''$ West 382.40 feet; thence South $36^{\circ} 05' 34''$ West 400.00 feet; thence North $87^{\circ} 50' 03''$ West 107.17 feet; thence North $2^{\circ} 09' 57''$ East 664.30 feet; thence North $87^{\circ} 50' 03''$ West 392.43 feet to a point on the Southeasterly margin of Crow Road; thence along said margin on the arc of a 602.96 foot radius curve left (the long chord of which bears North $28^{\circ} 29' 51''$ East 1.06 feet); thence North $28^{\circ} 26' 50''$ East 54.71 feet to a point on the East-West center of section line of said Section 6; thence along said line South $87^{\circ} 50' 03''$ East 698.16 feet to the Point of Beginning, all in Lane County, Oregon.

7956459

TL 1402
+ 85m + over 1400

STATUTORY BARGAIN AND SALE DEED

ELIHU H. SMITH and HAZEL D. SMITH, Grantor, conveys to SHARON E. SUTLEY and GARY SUTLEY, husband and wife, and MARVIN ROBERTS and JANINE ROBERTS, husband and wife, Grantee, the real property described in Exhibit "A" attached hereto and by this reference incorporated herein.

The true and actual consideration for this conveyance is \$40,827.00.

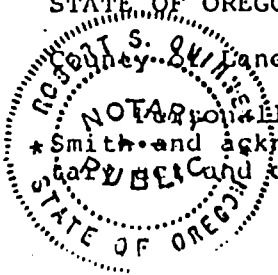
Dated this 18 day of September, 1979. 3 • 11:19 9855 • 0007.60

Elihu H. Smith
Elihu H. Smith

Hazel D. Smith
Hazel D. Smith

STATE OF OREGON)
) ss.
) Robert S. Juring

September 18, 1979



Personally appeared the above named Elihu H. Smith and Hazel D. Smith and acknowledged the foregoing instrument to be their voluntary deed. Before me:

Robert S. Juring
Notary Public for Oregon
My Commission Expires: 1-6-80

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

SHARON E. SUTLEY and GARY V. SUTLEY
JANINE ROBERTS and MARVIN C. ROBERTS
87496 Dukhobor Road
Eugene, Oregon 97402

STATUTORY BARGAIN AND SALE DEED

7956459

A parcel of land in the Southeast 1/4 of Section 6, Township 18 South, Range 4 West, W.M., said parcel being a portion of that property described in that deed recorded in Book 278, Page 529, Lane County, Oregon Deed Records, said parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 6 and running thence North 87° 50' 03" West 680.00 feet to the point of beginning; thence South 1° 27' 27" West 660.00 feet; thence North 87° 50' 03" West 3.10 feet; thence South 1° 27' 27" West 556.33 feet; thence North 88° 02' 55" West 1090.42 feet; thence North 2° 09' 57" East 506.02 feet; thence North 87° 50' 03" West 457.00 feet; thence North 36° 05' 34" East 400.00 feet; thence North 2° 09' 57" East 382.40 feet to a point on the East-West center of section line of said Section 6; thence along said line South 87° 50' 03" East 1312.22 feet to the point of beginning, all in Lane County, Oregon.

Contains 35.017 acres, more or less.

ALSO: An easement for the purpose of ingress and egress over the Northerly 50.00 feet of the following described land:

Commencing at the East 1/4 corner of said Section 6 and running thence North 87° 50' 03" West 1992.22 feet to the point of beginning; thence South 2° 09' 57" West 382.40 feet; thence South 36° 05' 34" West 400.00 feet; thence North 87° 50' 03" West 107.17 feet; thence North 2° 09' 57" East 664.30 feet; thence North 87° 50' 03" West 392.43 feet to a point on the Southeasterly margin of Crow Road; thence along said margin on the arc of a 602.96 foot radius curve left (the long chord of which bears North 28° 29' 51" East 1.06 feet) thence North 28° 26' 50" East 54.71 feet to a point on the East-West center of Section line said Section 6; thence along said line South 87° 50' 03" East 698.16 feet to the point of beginning, all in Lane County, Oregon.

7956459

State of Oregon,
County of Lane—ss.

I, D.M. Penfold, Director of the Department of General Services, in and for the said County, do hereby certify that the within instrument was received for record at

19 SEP 79 15: 42

Reel 1023R

Reel

Lane County OFFICIAL RECORDS.

D.M. Penfold, Director of the Department of General Services.

D.M. Penfold
D.M.

C2811

EXHIBIT "A"

File No. 05-172

CHRIS S. BELL, SRA*Real Estate Appraisal & Consultation
1234 High Street, Eugene, OR 97401*

October 27, 2005

Gary Sutley
P.O. Box 295
Dexter, OR 97431

Dear Client:

Upon your request I have completed an appraisal of the real property identified as **Tax Lot 18-04-06 #1402** outside Eugene, Oregon. The subject property is a 34.88 ac semi-rural parcel of unimproved land and is described in the attached summary report. The purpose of this appraisal was to estimate the market value of the subject real property for a measure 37 appeal. To this end, I have inspected the property, made a search of MLS sales data & deed records for sales of comparable properties. I am fully qualified to make an appraisal of this type of property. I have estimated the market value of the subject as a homesite and without the possibility of homesite approval. My estimate of the subject's market value with a homesite, as of September 15, 2005 is:

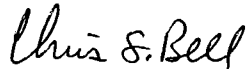
(\$575,000)

My estimate of the subject's market value without a homesite, as of September 13, 2005 is:

(\$104,700)

The subject property was appraised assuming fee simple ownership and unencumbered, subject to the assumptions and limiting conditions contained herein. I am assuming there is no significant hazardous material on the property, or hidden defect. The basis for the above value conclusion is explained in the contents of the attached summary appraisal report. If you have any further questions, please do not hesitate to call me.

Sincerely,



LAND APPRAISAL REPORT

File No. 05-172

IDENTIFICATION

Borrower CLIENT: Gary Sutley Census Tract 1002/2 Map Reference _____
 Property Address TL 1402, Crow Rd.
 City Eugene County Lane State OR Zip Code 97405
 Legal Description metes & bounds
 Sale Price \$ not sold Date of Sale n/a Loan Term _____ yrs. Property Rights Appraised Fee Leasehold De Minimis PUD
 Actual Real Estate Taxes \$ 24.86 (yr) Loan charges to be paid by seller \$ n/a Other sales concessions n/a
 Lender/Client n/a Address _____
 Occupant vacant land Appraiser Chris S. Bell, SRA Instructions to Appraiser Estimate market value of vacant parcel, with and without multiple homesite potential.

NEIGHBORHOOD

Location	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Employment Stability	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Avg.	<input type="checkbox"/> Fair	<input type="checkbox"/> Poor
Built Up	<input type="checkbox"/> Over 75%	<input checked="" type="checkbox"/> 25% to 75%	<input type="checkbox"/> Under 25%	Convenience to Employment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Growth Rate	<input type="checkbox"/> Fully Dev.	<input type="checkbox"/> Rapid	<input checked="" type="checkbox"/> Steady	Convenience to Shopping	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property Values	<input checked="" type="checkbox"/> Increasing	<input type="checkbox"/> Stable	<input type="checkbox"/> Declining	Convenience to Schools	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demand/Supply	<input checked="" type="checkbox"/> Shortage	<input type="checkbox"/> In Balance	<input type="checkbox"/> Oversupply	Adequacy of Public Transportation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marketing Time	<input checked="" type="checkbox"/> Under 3 Mos.	<input type="checkbox"/> 4-6 Mos.	<input type="checkbox"/> Over 6 Mos.	Recreational Facilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Present Land Use	<u>50%</u> 1 Family	<u>0%</u> 2-4 Family	<u>0%</u> Apts.	Adequacy of Utilities	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>0%</u> Industrial	<u>0%</u> Vacant	<u>50%</u> agricultural	Property Compatibility	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in Present Land Use	<input checked="" type="checkbox"/> Not Likely	<input type="checkbox"/> Likely (*)	<input type="checkbox"/> Taking Place (*)	Protection from Detrimental Conditions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(*) From _____ To _____			Police and Fire Protection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Predominant Occupancy	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant	<u>0%</u> Vacant	General Appearance of Properties	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Price Range	\$ <u>250,000</u> to \$ <u>700,000+</u> Predominant Value \$ <u>325,000</u>			Appeal to Market	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Age	<u>0</u> yrs. to <u>70</u> yrs.	Predominant Age <u>20</u> yrs.						

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): The subject is located just west of Eugene, within 1 mile of the city limits, and within the Eugene school district. Access and desirability are good. The area is a mix of small farms and homes on small parcels. Further development is limited by restrictive land use laws, which maintains the semi-rural atmosphere. Demand is very strong due to the general atmosphere and limited supply of building site. There are no adverse influences.

SITE

Dimensions irregular - see plat map = 34.88 Sq. Ft. or Acres Corner Lot
 Zoning classification E-40; farm use (was 5ac, homesite allowed) Present Improvements do do not conform to zoning regulations
 Highest and best use Present use Other (specify) single family homesite
 Elec. Public Other (Describe) _____
 Gas _____
 Water individ. well
 San. Sewer individ. septic
 Off Site Improvements: Street Access Public Private; Surface gravel lane; Maintenance Public Private; Storm Sewer Curb/Gutter; Sidewalk Street Lights
 Topo Hillside, level to moderate slope
 Size typical
 Shape rectangular plus access strip
 View very good to distant mountains
 Drainage adequate natural
 Is the property located in a HUD Identified Special Flood Hazard Area? No Yes

Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions): The subject site is rolling open pasture with some small scattered woodland. A knoll at the SW corner offers a good view homesite, as does the higher east half of the property. Access is by easement across tax lot 1400 to the west. The subject is a small ravine and seasonal creek. There are no apparent adverse conditions. It is assumed, based on 5 acre zoning, that up to 7 homesites could be obtained after an investment of time & money. (see attached comments)

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.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	TL 1402, Crow Rd. Eugene	Sarvis Berry Ln. Eugene	Spencer Hollow Rd. Eugene	E. 43rd Ave. Eugene
Proximity to Subject				
Sales Price	\$ not sold	\$ 475,000	\$ 359,000	\$ 295,000
Price		\$ 6,579/ac	\$ 21,115/ac	\$ 15,128/ac
Data Source	inspection	REMAX Integrity Rty. #5039104	Prudential Rty. #4064540	Barnhard Rty. #4065872
Date of Sale and Time Adjustment	DESCRIPTION n/a	DESCRIPTION Sept. 2005	DESCRIPTION Sept. 2005	DESCRIPTION Nov. 2004
Location	good semi-rural	comparable	comparable	comparable
Site/View	34.88ac / open	72.2ac / wooded -111,000	17 ac / mixed +54,000	19.5ac / wooded +46,500
View	good	good	good	none +20,000
Improvements	well	gravel drives	2 wells, drive	none +5,000
Terrain	level to moderate	level to moderate	level to moderate	level to mild
Homesite potential	3-4 probable	2 possible +200,000	2 possible +200,000	4 possible
Sales or Financing Concessions	n/a	cash	cash	contract
Net Adj. (Total)		<input checked="" type="checkbox"/> + <input type="checkbox"/> - : \$ 89,000	<input checked="" type="checkbox"/> + <input type="checkbox"/> - : \$ 254,000	<input checked="" type="checkbox"/> + <input type="checkbox"/> - : \$ 118,700
Indicated Value of Subject		\$ 564,000	\$ 613,000	\$ 413,700

Comments on Market Data: These are the most recent and similar sales that were found. Sales have been limited for properties with potential for multiple homesites. Sales 1 & 2 are judged to be most reflective of the subject because of their topography, access, date of sale and views. (See comments page)

Comments and Conditions of Appraisal: It is assumed that the well is functioning adequately, and that the subject has at least four potential legal homesites. The value estimate for the subject without legal homesite status is included in the comments addendum.

It should also be noted that in a rising market with very limited supply of similar homesites, the sale price could easily be higher than can be supported by recent sales.

Final Reconciliation: Sales 1 & 2 are judged to be more comparable to the subject than sale 3 and are therefore given the most weight.

RECONCILIATION

ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF September 15, 2005 to be \$ 575,000

Chris S. Bell
 Chris S. Bell, SRA Did Did Not Physically Inspect Property
 Appraiser(s) Review Appraiser (if applicable)

[Y2K]

Supplemental Addendum

File No. 05-172

LINE NO. OF TOTAL PAGES #3

Borrower/Client	CLIENT: Gary Suttley		
Property Address	TL 1402, Crow Rd.		
City	Eugene	County	Lane
		State	OR
		Zip Code	97405
Lender	n/a		

PROPERTY DESCRIPTION

The subject is reported to abut a "resource lands" area which may restrict the number of actual homesites that can be obtained. This appraisal is therefore based on the assumption that there are only four potential homesites. Additional homesites are deemed to be somewhat speculative. The value estimate would rise accordingly if additional homesites can be obtained.

SALES DATA

Sale 1 is also identified as tax map 19-04-05 #800, 802 & 803. It is a 72 acre parcel of wooded land (young trees) with moderate slope and good view potential. This property was reported as having potential for two buildable lots. It is improved with UG power and gravel roads to the building sites as well as an old barn of minimal value. It is very near town and within 4J schools, as are the subject and other sales. The homesite potential adjustment considers the cost to divide the subject into separate parcels. Sale 2 is also identified as tax map 18-03-29 #1900, 2000, 2100 & 2200. It is a moderately sloping mixed open & wooded parcel with good view potential and easy access. Sale 3 is also identified as tax map 18-03-16-10 #1800, 1900, 2000 & 2100. It is a fully wooded parcel with no view potential and inferior desirability to the subject. This sale is dated and must be adjusted for time at the 2% / month rate during 2005. It is an inferior property with no view potential, but is just outside of town and was reported to have potential for 4 homesites.

The discount from retail value of the potential homesites to the bulk sale price was 25% for sales 1 & 2 and 49% for sale 3, which is dated. This discount reflects the costs of development, profit & time. The subject should be higher than sales 1 & 2 because of the need to divide the parcel, say 35%. With a retail value of \$220,000 for an approved homesite, the current value should be approximately \$143,000. By this logic, current value for the subject would be approximately \$572,000 for 4 homesites, up to \$1,001,000 for the full seven homesites. This appraisal has assumed there are only 4 potential homesites because of the restrictions placed by adjacent "resource lands".

VALUE WITHOUT HOMESITE APPROVAL

The subject is a 34.88 acre parcel of land zone E-40. It is mostly moderately sloping open land with some oak trees & brush. With rocky, clay-based soils it is best suited to grazing. Adjacent uses are resource timber land and homesites. The grazing use results in a very low economic return to the land. The following sales have been used to analyze the market for a small parcel dedicated only to these uses:

Sale A) A 20.97 acre parcel on Beymer Rd. identified as tax lot 18-03-29 #201. It sold in October 2004 for \$295,000. This parcel was unimproved, with a mix of pasture & woodland. It has a good view of Spencer Butte, as well as a creek & homesite approval. It is considered to be superior to the subject in vegetation, with an equal view. This sale indicates a value of \$279,000 for a good 20 acre view homesite. This sale is paired with sale B to arrive at the contributory value of additional acreage.

Sale B) A 33.95 acre parcel off Christensen Rd. identified as tax lot 18-03-29 #104. It sold July 2003 for \$315,000. This parcel included a good well and good view, and was moderately sloping with young trees. It is superior in vegetation and improvements. This sale indicates a value of \$36,000 for the additional 14 acres, or \$2,571 per acre.

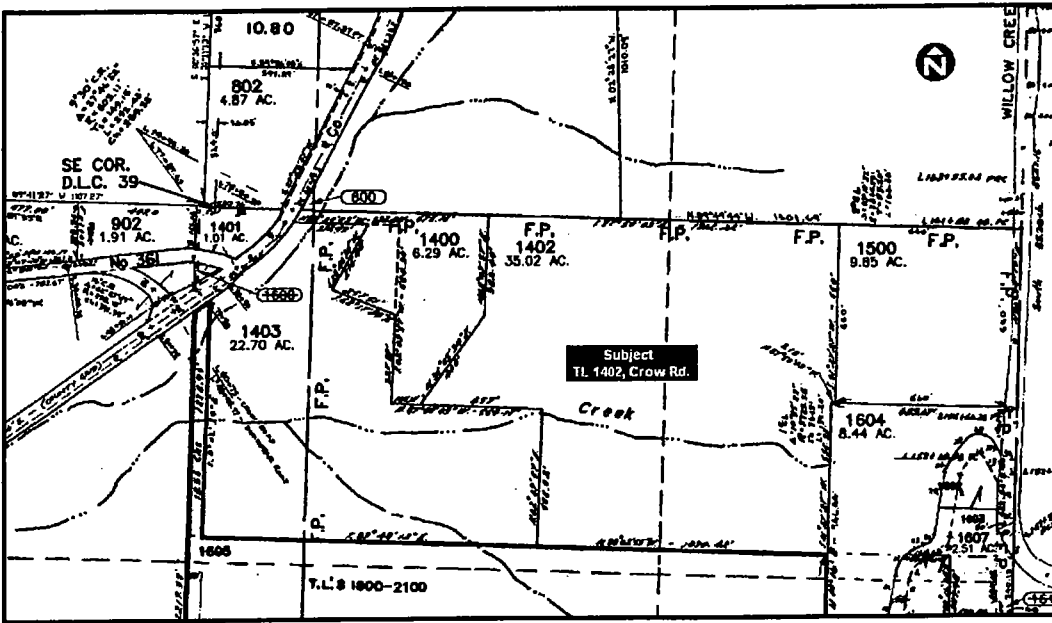
Sale C) A 8.23 acre parcel on Newton Ct. identified as tax lot 18-04-31 #210. It sold in April 2005 for \$212,200, and has one approved homesite with a good view but no improvements. This sale is paired with sale C to arrive at the contributory value of additional acreage.

Sale D) A 29.49 acre parcel on Christensen Rd. identified as tax lot 18-03-29 #105. It sold in August 2005 for \$320,000. It is wooded, with no improvements but slightly superior views and more level terrain, and is therefore superior to sale 3. There is also a small amount of marketable timber present. When the 8.2 acre homesite is deducted at \$250,000, the remaining 21.5 acres is found to contribute \$3,256 per acre.

These two sets of paired sales are consistent with prior studies done by the appraiser, and are judged to adequately reflect the market value for additional land of this type. They indicate a range of \$2,500 to \$3,300 per acre. Considering the subject's terrain, setting and soils, a value near the upper middle of this range is judged most appropriate, say \$3,000 per acre. The market value of the subject property, without homesite potential, is therefore approximately 5.26 ac @ \$3,000, or **\$104,640**.

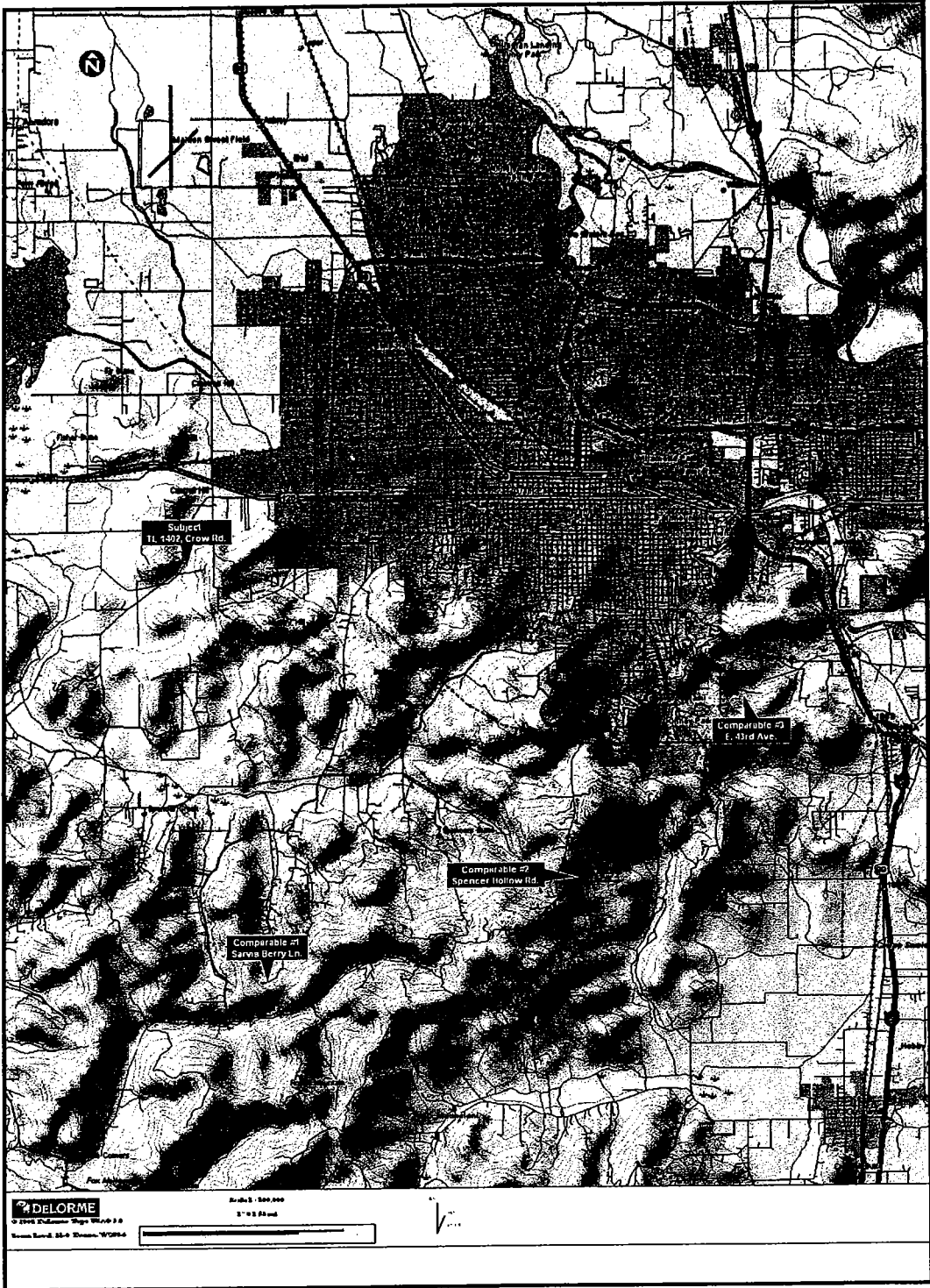
Location Map

Borrower/Client CLIENT: Gary Sutley			
Property Address TL 1402, Crow Rd.			
City Eugene	County Lane	State OR	Zip Code 97405
Lender n/a			



Location Map

Borrower/Client CLIENT: Gary Suttley			
Property Address TL 1402, Crow Rd.			
City Eugene	County Lane	State OR	Zip Code 97405
Lender n/a			



Subject Photo Page

Borrower/Client CLIENT: Gary Sutley			
Property Address TL 1402, Crow Rd.			
City Eugene	County Lane	State OR	Zip Code 97405
Lender n/a			

Looking east from center

TL 1402, Crow Rd.
 Sales Price not sold
 Gross Living Area
 Total Rooms
 Total Bedrooms
 Total Bathrooms
 Location good semi-rural
 View 34.88ac / open
 Site
 Quality
 Age

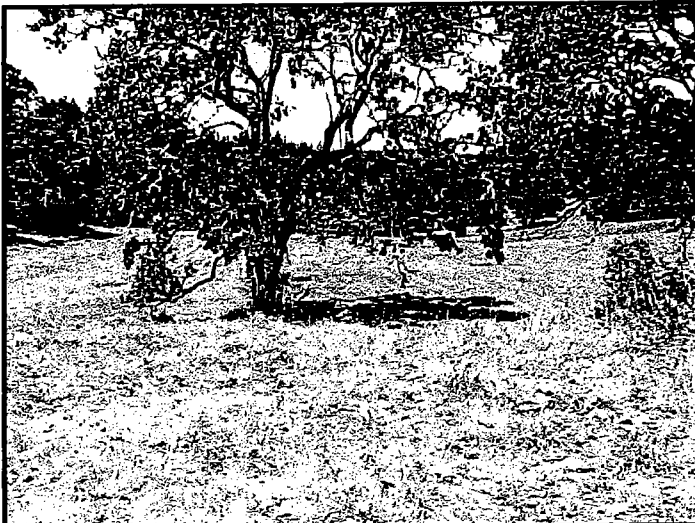
NOTE: looking west along
 access strip



Looking SW from knoll

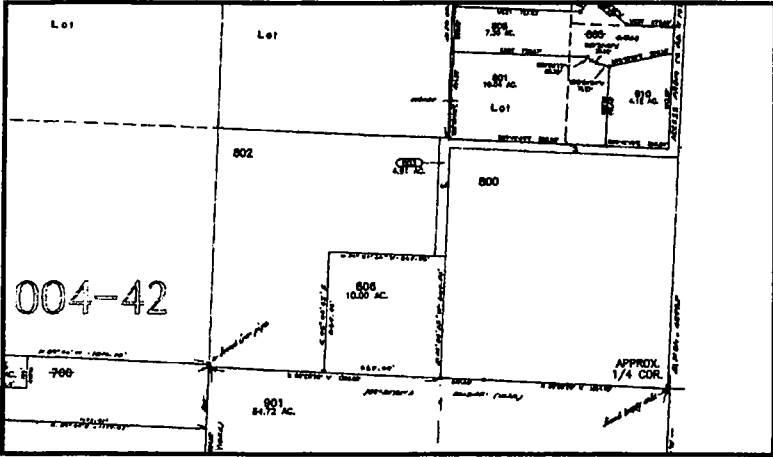


**Looking to NW corner
 (from knoll)**

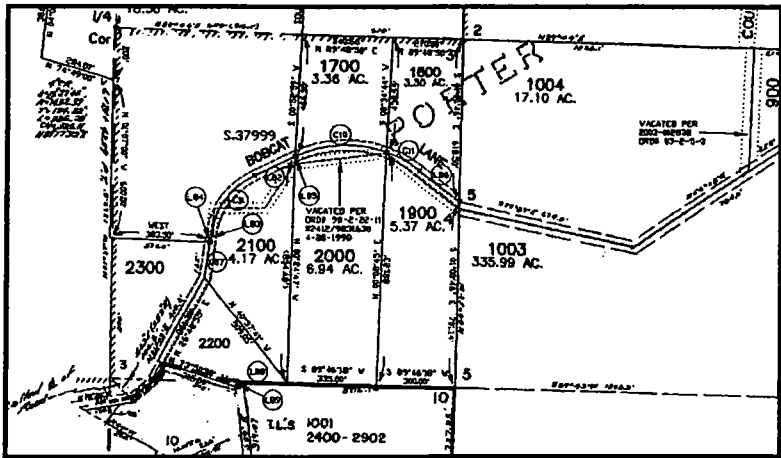


Comparable Photo Page

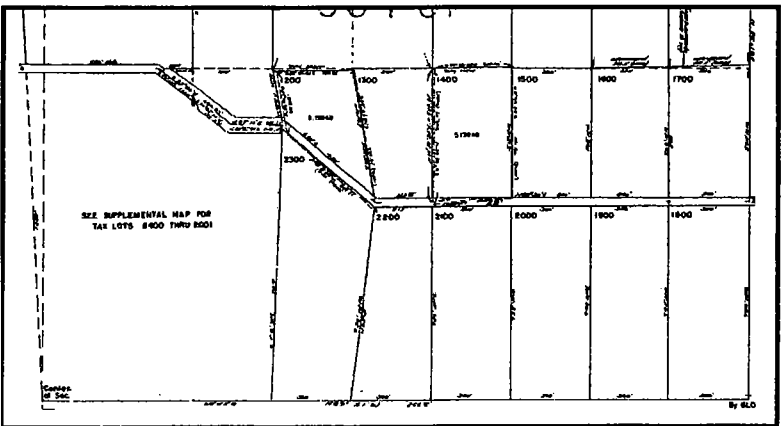
Borrower/Client CLIENT: Gary Sutley			
Property Address TL 1402, Crow Rd.			
City Eugene	County Lane	State OR	Zip Code 97405
Lender n/a			



Comparable 1
 Sarvis Berry Ln.
 Proximity
 Sale Price 475,000
 GLA
 Total Rooms
 Total Bedrms
 Total Bathrms
 Location comparable
 View 72.2ac / wooded
 Site
 Quality
 Age
 Parcels 800, 801 & 803



Comparable 2
 Spencer Hollow Rd.
 Proximity
 Sale Price 359,000
 GLA
 Total Rooms
 Total Bedrms
 Total Bathrms
 Location comparable
 View 17 ac / mixed
 Site
 Quality
 Age
 Parcels 1900, 2000, 2100 & 2200



Comparable 3
 E. 43rd Ave.
 Proximity
 Sale Price 295,000
 GLA
 Total Rooms
 Total Bedrms
 Total Bathrms
 Location comparable
 View 19.5ac / wooded
 Site
 Quality
 Age
 Parcels: 1800, 1900, 2000 & 2100

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration in the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.
2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.
3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.
4. I have no present or prospective interest in the property that is the subject to this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property.
5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.
6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.
7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.
8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.
9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and disclosed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: TL 1402, Crow Rd., Eugene, OR 97405

APPRAISER:

Signature: Chris S. Bell
 Name: Chris S. Bell, SRA
 Date Signed: 10-27-05
 State Certification #: _____
 or State License #: L000166
 State: Oregon
 Expiration Date of Certification or License: 12/31/2006

SUPERVISORY APPRAISER (only if required):

Signature: _____
 Name: _____
 Date Signed: _____
 State Certification #: _____
 or State License #: _____
 State: _____
 Expiration Date of Certification or License: _____

Did Did Not Inspect Property