

W. I.S. C.



**Lane County**

LAND MANAGEMENT DIVISION  
125 EAST 8<sup>TH</sup> 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 05-6397, Cully)**

**I. MOTION**

If the applicant submits evidence that demonstrates a member of the Cully family has an interest in Cully Properties, LLC, then move to approve the 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 Cully Properties LLC to use the property as allowed at the time the property was acquired?

**III. DISCUSSION**

**A. Background**

**Applicant:** Lloyd Cully

**Current Owner:** Cully Properties, LLC

**Agent:** Tony Chapman

**Legal Description of Property:** 20-03-04 #200

**Acreage:** 32.5 acres

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

**Date Property Acquired by Cully family:** January 28, 1974

**Date claim submitted:** September 23, 2005. On January 20, 2006, the applicant placed this claim on hold. The new deadline was May 3, 2006.

**Land Use Regulations in Effect at Date of Acquisition by Cully Properties LLC:** E30 (Exclusive Farm Use), LC 16.212.

**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 (Cully Properties, LLC/  
 ) PA05-6397)

**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 Tony Chapman on behalf of Cully Properties, LLC (PA05-6397), the owner of real property described in the records of the Lane County Assessor as map 20-03-04, tax lot 200, consisting of approximately 32 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 owner 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 (PA05-6397) of Cully Properties, LLC and has now determined that the restrictive E30 (Exclusive Farm Use) zone dwelling and land division requirements of LC 16.212 were enforced and made applicable to prevent the Cully family from developing the property as might have been allowed at the time it was acquired on January 28, 1974, and that the public benefit from application of the current E30 dwelling and division land use regulations to the applicants' property is outweighed by the public burden of paying just compensation; and

**WHEREAS**, Cully Properties, LLC requests either \$205,000 as compensation for the reduction in value of its property, or waiver of all land use regulations that would restrict the division of land into multiple lots and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time the Cully family 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 E30 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 Cully Properties, LLC to make application for development of the subject property in a manner similar to what it could have been able to do under the regulations in effect when it 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, Cully Properties, LLC, made a valid claim under Ballot Measure 37 by demonstrating restrictive county land use regulations enacted or enforced since the Cully family acquired an interest in the property have the effect of reducing the fair market value of the property, and the Board hereby elects not to pay just compensation but in lieu of payment, the request of Cully Properties, LLC shall be granted and the restrictive provisions of LC 16.212 enacted since Cully Properties, LLC acquired the property shall not apply, so that Cully Properties, LLC can make application for approval to develop the property described in the records of the Lane County Assessor as map 20-03-04, tax lot 200, in a manner consistent with the land use regulations in effect when it acquired the property on December 30, 1999.

**IT IS HEREBY FURTHER ORDERED** that Cully Properties, LLC still will need to make application and receive approval of any development under the other land use regulations that were not specifically identified or established by Cully Properties, LLC as restricting the development of the property, and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action described above, the claimant shall submit appropriate applications for review and approval 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 Cully Properties, LLC does not constitute a waiver or modification of state land use regulations and does not authorize immediate development of the subject property. 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,

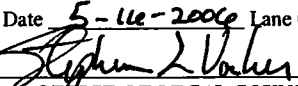
1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml> ) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

**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 5-16-2006 Lane County  
  
OFFICE OF LEGAL COUNSEL



**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 Att. Appr.

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

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

**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.

App - \$145,000 1 PARCELS \$145,000

App \$70,000 5 PARCELS \$350,000

5 BUILDABLE PARCELS OR COMPENSATION \$205,000

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).

x Rhonda Cully  
Rhonda Cully  
Owner(s) Signature

9/14/05  
Date

Tony Chapman  
Applicant/Agent Signature

9-14-05  
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.



## **Fidelity National Title Company of Oregon**

### **PRELIMINARY REPORT**

*In response to the application for a policy of title insurance referenced herein, **Fidelity National Title Company of Oregon** reports that it is prepared to issue, or cause to be issued, as of the specified date, a Policy or Policies of Title Insurance describing the land and the estate or interest described, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of the Policy forms.*

*The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit A attached. Copies of the Policy forms should be read. They are available from the office which issued this report.*

*This report (and any supplements or amendments) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed.*

*The Policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California corporation.*

*Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.*

*It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.*

*This report is for the exclusive use of the parties to the contemplated transaction, and the company does not have any liability to any third parties nor any liability until the full premium is paid and a policy is issued. Until all necessary documents are placed of record, the company reserves the right to amend or supplement this preliminary report.*

*Londa Minyard*  
Countersigned



# Fidelity National Title Company of Oregon

3007 North Delta Highway • Eugene, OR 97408  
(541) 345-3660 • FAX (541) 345-3678

## PRELIMINARY REPORT

ESCROW OFFICER: Dawn J. Allen  
TITLE OFFICER: Londa Minyard

ORDER NO.: 03-400613-46

TO: Tony Chapman

OWNER/SELLER: Cully Properties, LLC  
BUYER/BORROWER: To come

PROPERTY ADDRESS: Map 20 03 04 00 00200

EFFECTIVE DATE: September 1, 2005, 05:00 P.M.

1. The policy and endorsements to be issued and the related charges are:

	<u>AMOUNT</u>	<u>PREMIUM</u>	
Owner's Standard	To Come	200.00	Partial Billing
Government Service Charge		20.00	

2. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee

3. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Cully Properties, LLC

4. THE LAND REFERRED TO IN THIS REPORT IS SITUATED, IN AN UNINCORPORATED AREA, IN THE COUNTY OF Lane, STATE OF OREGON, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "ONE" ATTACHED HERETO AND MADE A PART HEREOF

LM\LM 09/16/2005



## EXHIBIT "ONE"

Beginning at the brass cap marking the Southeast corner of the John M. Farlow Donation Land Claim No. 39, Township 20 South, Range 3 West of the Willamette Meridian; thence, South  $89^{\circ} 17' 01''$  West 1071.78 feet along the South line of said Claim No. 39 to the Northwest corner of that tract described in instrument recorded at the Lane County Recorder's Office at Reel R803, Instrument No. 35224; thence, South  $4^{\circ} 33' 50''$  West 672.28 feet along the West line of said tract to a point on the Northerly right of way line of Lynx Hollow Road (County Road No. 1094); thence, North  $69^{\circ} 20'$  West along said right of way line to a point on the West line of the John F. Winter Donation Land Claim No. 40, said Township and Range; thence, North  $0^{\circ} 36'$  West along said West line to a point on a line parallel with the South line of the 30.00 acre tract monumented in that survey recorded at the Land County Surveyor's Office under No. 23211, said parallel line being positioned so that it forms the South line of a 10.00 acre tract lying immediately South of said surveyed line and is bound on the East by the East line of said Claim No. 39 and on the West by the East line of said Claim No. 40; thence, North  $89^{\circ} 24'$  East 1743.33 feet, more or less, along said parallel line to a point on the East line of said Claim 39; thence, South  $0^{\circ} 36'$  East 589.85 feet, more or less, to the True Point of Beginning, in Lane County, Oregon.

**AS OF THE DATE OF THIS REPORT, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN THE POLICY FORM WOULD BE AS FOLLOWS:**

**GENERAL EXCEPTIONS:**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records, proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession.
3. Easements, or claims of easements or encumbrances, not shown by the public records, reservations or exceptions in patents or in acts authorizing the issuance thereof, water rights, claims or title to water.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose.
5. Any statutory liens for labor or material, including liens for contributions due to the State of Oregon for unemployment compensation and for worker's compensation, which have now gained or may gain priority over the lien of the insured deed of trust, which liens do not now appear of record.

**SPECIFIC ITEMS AND EXCEPTIONS:**

6. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2005-2006.
7. The herein described property has been classified for zoned farm, as disclosed by the tax roll. In the event of disqualification, said property may be subject to additional taxes and/or penalties.
8. Rights of the public and governmental agencies in and to any portion of said land lying within the boundaries of streets, roads and highways.

9. **Any adverse claim based upon the assertion that:**
- a. Said land or any part thereof is now or at any time has been below the highest of the high watermarks of the Lynx Creek, in the event the boundary of said river has been artificially raised or is now or at any time has been below the high watermark, if said river is in its natural state.
  - b. Some portion of said land has been created by artificial means or has accreted to such portion so created.
  - c. Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Lynx Creek, or has been formed by accretion to any such portion.
10. **Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of the Lynx Creek, and the ownership of the State of Oregon in and to that portion lying below the high water mark thereof.**
11. **Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.**
- |             |   |
|-------------|---|
| Granted to: | The Pacific Telephone and Telegraph Company |
| Purpose:    | Utilities                                   |
| Recorded:   | March 13, 1947, Book 343, Page 346-349      |
| Affects:    | Blanket utility easements                   |
12. **Our examination of the title to the subject property discloses no open trust deeds or mortgages. The accuracy of this conclusion should be confirmed in writing prior to closing of the proposed transaction.**
13. **Leases and/or tenancies, if any.**
14. **No search has been made for financing statements filed in the office of the Secretary of State, or in any county other than the county in which the herein described land is located. No liability is assumed for any financing statement filed in the office of the County Clerk (Recorder) covering timber, crops, fixtures or contracts affecting said land if said land is not described by metes and bounds, recorded lot and block or under the rectangular survey system.**
15. **Personal property taxes, if any.**

16. Before issuing its policy of title insurance, this Company will require for review, the following documents from the Limited Liability Company named below.

Limited Liability Company: Cully Properties, LLC

- (a) A copy of its operating agreement and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member.
- (b) Confirmation that its Articles of Organization and any restated Articles of Organization have been filed with the Secretary of State.
- (c) If the Limited Liability Company is member-managed a full and complete current list of members certified by the appropriate manager or member.
- (d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin.
- (e) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it has complied with Oregon "doing business" laws, if applicable.

After review of the requested documents, the Company reserves the right to add additional items or make additional requirements prior to the issuance of any policy of title insurance.

**END OF ITEMS AND EXCEPTIONS**

**NOTES:**

**Note A.** YOU WILL BE REVIEWING, APPROVING AND SIGNING IMPORTANT DOCUMENTS AT CLOSING. LEGAL CONSEQUENCES FOLLOW FROM THE SELECTION AND USE OF THESE DOCUMENTS. THESE CONSEQUENCES AFFECT YOUR RIGHTS AND OBLIGATIONS. YOU MAY CONSULT AN ATTORNEY ABOUT THESE DOCUMENTS. YOU SHOULD CONSULT AN ATTORNEY IF YOU HAVE QUESTIONS OR CONCERNS ABOUT THE TRANSACTION OR ABOUT THE DOCUMENTS. IF YOU WISH TO REVIEW TRANSACTION DOCUMENTS THAT YOU HAVE NOT YET SEEN, PLEASE CONTACT THE ESCROW AGENT.

**Note B.** Property taxes for the fiscal year 2004-2005, Paid in full.

Amount: \$17.79  
 Account No.: 0881407  
 Map No.: 20 03 04 00 00200  
 Levy Code: 45-01  
 Affects: Code split

Property taxes for the fiscal year 2004-2005, Paid in full.

Amount: \$94.34  
 Account No.: 1300647  
 Map No.: 20 03 04 00 00200  
 Levy Code: 45-02  
 Affects: Code split

**Note C.** There are no judgments of record against Cully Properties, LLC or Lori Cully.

**Note D.** There are no tax liens of record against Cully Properties, LLC or Lori Cully.

**Note E.** WD from Lucille C. Palmer & Elsie A. Palmer to Lloyd Cully & Theda Cully on 3-21-1974 #74 10972 (IOP), then BSD to Lloyd E. Cully & Theda L. Cully, Trustees of the Cully Family Trust dated 3-28-1991 on 5-16-91 #9122875 (IOP), then BSD to Cully Properties, LLC on 1-7-00 #2000000984 & corrected 2-8-00 #2000007608.

**EXHIBIT A**  
**AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92) and**  
**AMERICAN LAND TITLE ASSOCIATION LEASEHOLD LOAN POLICY (10-17-92)**  
**SCHEDULE OF EXCLUSIONS FROM COVERAGE**

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

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation, or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:  
(a) created, suffered, assumed or agreed to by the insured claimant;  
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;  
(c) resulting in no loss or damage to the insured claimant;  
(d) attaching or created subsequent to Date of Policy, or  
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid

value for the estate or interest insured by this policy.

4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage, and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim which arises out of the transaction creating the interest of the mortgage insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

**AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-92) AND**  
**AMERICAN LAND TITLE ASSOCIATION LEASEHOLD OWNER'S POLICY (10-17-92)**  
**SCHEDULE OF EXCLUSIONS FROM COVERAGE**

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

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.  
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:  
(a) created, suffered, assumed or agreed to by the insured claimant;

(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;

- (c) resulting in no loss or damage to the insured claimant;
- (d) attaching or created subsequent to Date of Policy, or
- (e) resulting in loss or damage which would not have been sustained if the insured claimant has paid value for the estate or interest insured by this policy.
4. Any claim which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
  - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument or transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above ALTA policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

**SCHEDULE B**  
**GENERAL EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

**PART 1**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records, proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession.

3. Easements, or claims of easements or encumbrances, not shown by the public records, reservations or exceptions in patents or in acts authorizing the issuance thereof, water rights, claims or title to water.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose.
5. Any statutory liens for labor or material, including liens for contributions due to the State of Oregon for unemployment compensation and for worker's compensation, which have now gained or may gain priority over the lien of the insured deed of trust, which liens do not now appear of record.

## Fidelity National Financial Group of Companies' Privacy Statement

July 1, 2001

We recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public personal information ("Personal Information"), and to whom it is disclosed, will form the basis for a relationship of trust between us and the public that we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

In the course of our business, we may collect Personal Information about you from the following sources:

- From applications or other forms we receive from you or your authorized representative;
- From your transactions with, or from the services being performed by, us, our affiliates, or others;
- From our internet web sites;
- From the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others; and
- From consumer or other reporting agencies.

### **Our Policies Regarding the Protection of the Confidentiality and Security of Your Personal Information**

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

### **Our Policies and Practices Regarding the Sharing of Your Personal Information**

We may share your Personal Information with our affiliates, such as insurance companies, agents, and other real estate settlement service providers. We also may disclose your Personal Information:

- to agents, brokers or representatives to provide you with services you have requested;
- to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- to others with whom we enter into joint marketing agreements for products or services that we believe you may find of interest.

In addition, we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

### **Right to Access Your Personal Information and Ability to Correct Errors or Request Changes or Deletion**

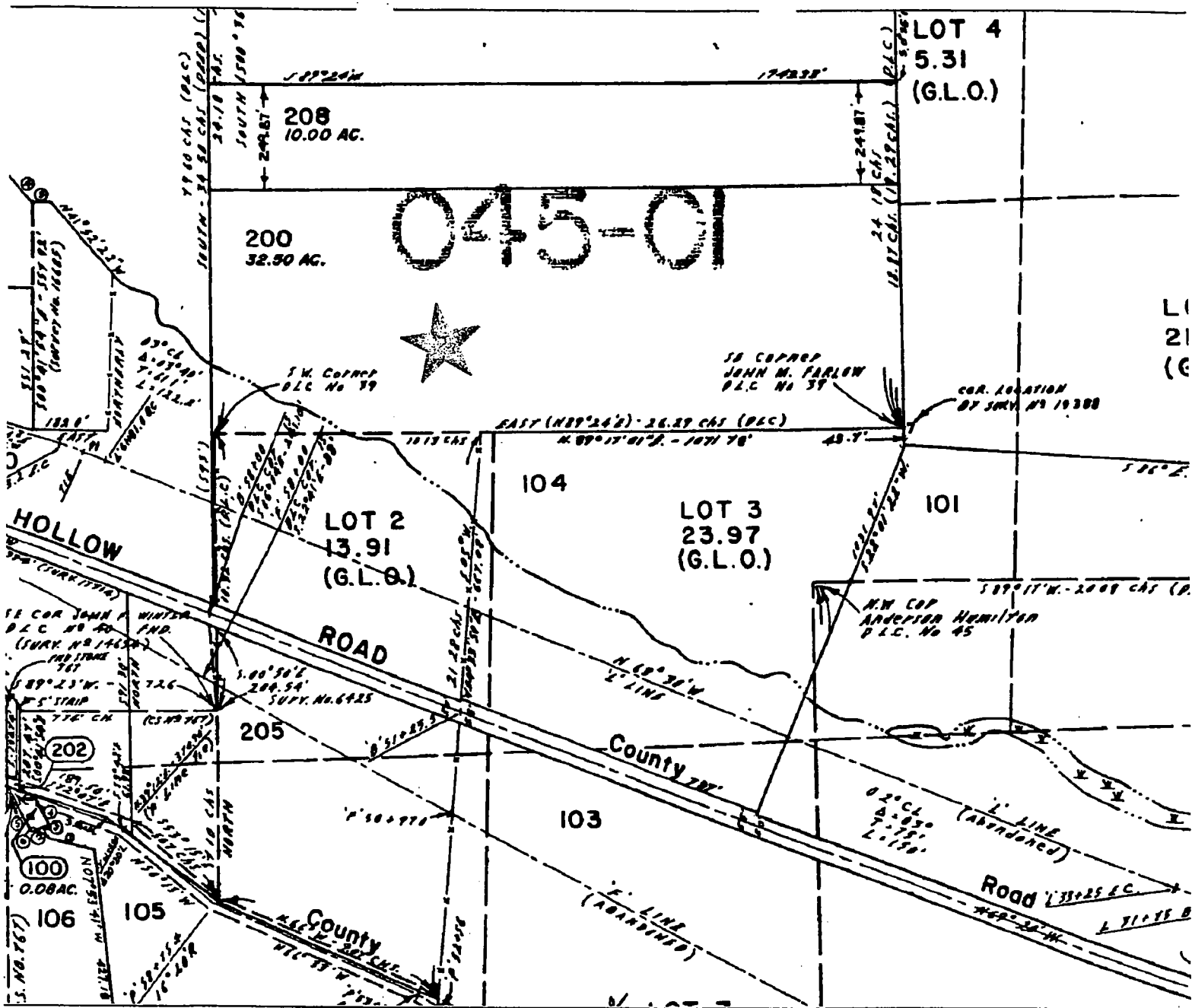
Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request correction, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer  
Fidelity National Financial, Inc.  
4050 Calle Real, Suite 220  
Santa Barbara, CA 93110

### **Multiple Products or Services**

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.



## FIDELITY NATIONAL TITLE COMPANY

This sketch above is made solely for the purpose of assisting in locating said premises and the company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.

Map # 20 03 04 00 00200 000



- 200

20-3-4

9-114075

74 10972

WARRANTY DEED

FOR VALUE RECEIVED

LUCILLE C. PALMER and ELSIE A. PEKLER

herein referred to as grantors, hereby grant, bargain, sell, and convey unto

LLOYD CULLY and THEDA CULLY, husband and wife

herein referred to as grantees, the following described real property, with tenements, hereditaments, and appurtenances, to wit:

PARCEL 1

Beginning at a point where the Southerly right of way line of the County Road No. 1094 intersects the East line of the John F. Winter Donation Land Claim No. 40, Township 20 South, Range 3 West of the Willamette Meridian, said point being North 0° 50' West 204.54 feet from the Southeast corner of said claim; from said beginning point run South 0° 50' East along said West line 204.54 feet to the said Southeast corner of said Claim No. 40; thence South 89° 23' West 726.14 feet; thence North 0° 37' West 477.3 feet to the Southerly right of way line of said County road; thence from a tangent, the bearing of which is South 69° 20' East along the arc of a 1207.5 feet radius curve right (the long chord of which bears South 72° 07.5' East 137.2 feet) a distance of 137.2 feet; thence South 69° 20' East along said Southerly right of way 638.04 feet to the place of beginning, being a part of said John F. Winter Donation Land Claim No. 40, in Section 4, in Lane County, Oregon;

ALSO: Beginning at a point 4.41 chains West of the Southeast corner of the John Winter Donation Land Claim No. 40, in Township 20 South, Range 3 West of the Willamette Meridian; thence running West 3.33 chains; thence South 2.83 chains; thence South 71° 30' East 3.55 chains; thence North 3.93 chains to the Place of Beginning, all in Lane County, State of Oregon.

PARCEL 2

Beginning at the Southwest corner of the J. M. Farlow Donation Land Claim, Notification No. 6590 in Township 20 South, Range 3 West of the Willamette Meridian; thence North 24.18 chains; thence East 26.29 chains to the East line of the J. M. Farlow Donation Land Claim; thence South 24.18 chains to the Southeast corner of the said J. M. Farlow's Donation Land Claim; thence West 26.29 chains to the Southwest corner of said Farlow's Donation Land Claim, and place of beginning, in Section 4, Township 20 South, Range 3 West, Willamette Meridian, in Lane County, Oregon;

ALSO: Commencing at the Southeast corner of the John F. Winters Donation Land Claim being Claim No. 40, in Township 20 South, Range 3 West, Willamette Meridian; thence North 10.43 chains, to the Southwest corner of the J. M. Farlow Donation Land Claim being No. 39 in said Township; thence East 10.13 chains; thence South 5° West 21.28 chains into County Road; thence North 66° West 9.07 chains to said County Road; thence North 7.10 chains to the place of beginning, in Section 4, Township 20 South, Range 3 West, Willamette Meridian, in Lane County State of Oregon;

ALSO: Commencing at the Southeast corner of Claim No. 40, in Section 4, Township 20 South, Range 3 West, Willamette Meridian; thence West 7.74 chains to the most Westerly Northwest corner of Lot 2, Section 4, South 2.83 chains into County Road South 71.5° East 3.86 chains, South 53.25° East 5.07 chains in said road North 710 chains to the Point of Beginning, except 1 acre to Caroline Walker all in Section 4, Township 20 South, Range 3 West of the Willamette Meridian, Lane County, Oregon.

(6) 12-19-3W (1) 4-25-3W (MORE)

71 10972

TO HAVE AND TO HOLD the said premises unto said Grantees, their heirs and assigns forever. And the said Grantors hereby covenant that they are lawfully seized in fee simple of said premises; that they are free from all incumbrances,

excepting conditions, restrictions and easements of record.

and that they will warrant and defend the above granted premises against all lawful claims whatsoever, except as above stated.

The true and actual consideration for this transfer is \$ 48,000.00

Dated January 28 19 74

\_\_\_\_\_(Seal)

*Lucille C. Palmer* (Seal)  
Lucille C. Palmer

\_\_\_\_\_(Seal)

*Elsie A. Peeler* (Seal)  
Elsie A. Peeler

Crook  
STATE OF OREGON, County of DEK m.

Personally appeared the above named

ELSIE A. PEELER

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

Dated January 28 A.D. 19 74

My Commission Expires

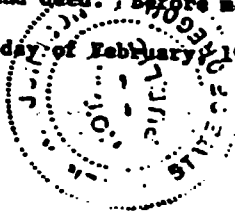
*J. J. Bochi*  
Notary Public for Oregon

9-18-74

STATE OF OREGON, County of Lane, ss.  
above named LUCILLE C. PALMER and acknowledged the foregoing instrument to be her  
voluntary act and deed. Before me:

Personally appeared the

DATED this 1st day of February 1974.



*J. J. Bochi*  
Notary Public for Oregon  
My Commission Expires: May 18, 1976

200 20-3-4

Lynx Hollow

**OREGON STATUTORY BARGAIN AND SALE DEED**

Lloyd Cully and Theda Cully, husband and wife, Grantors, convey to Cully Properties, LLC, Grantee, the real property described in Exhibit A attached hereto and incorporated herein.

The true consideration for this conveyance is \$NONE, plus other value given or promised.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

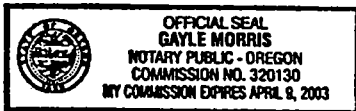
Dated this 30th day of December, 1999.

*Lloyd E. Cully*  
Lloyd E. Cully  
*Theda L. Cully*  
Theda L. Cully

STATE OF OREGON )  
County of Lane ) ss.

The foregoing instrument was acknowledged before me this 30th day of December 1999, by Lloyd E. Cully and Theda L. Cully.

*Gayle Morris*  
Notary Public for Oregon  
My Commission Expires: 4/9/03



DIVISION OF CHIEF DEPUTY CLERK  
LANE COUNTY DEEDS AND RECORDS



31.00

2000000984 3:28:33 PM 01/07/2000  
RPR DEED 1 10.00 11.00 10.00 5 CASHIER 02

SEND TAX STATEMENTS TO:

Cully Properties, LLC  
82810 Bradford  
Creswell, OR 97426

TAX ACCOUNT NUMBER:

AFTER RECORDING RETURN TO:

Malcolm H. Scott  
Gleaves Swearingen Larsen Potter Scott & Smith  
975 Oak St., Suite 800  
Eugene, OR 97401

**Exhibit A**

Beginning at the brass cap marking the southeast corner of the John M. Farlow Donation Land Claim No. 39, Township 20 South, Range 3 West of the Willamette Meridian; thence, South  $89^{\circ} 17' 01''$  West 1071.78 feet along the south line of said Claim No. 39 to the northwest corner of that tract described in instrument recorded at the Lane County Recorder's Office at reel R803, Instrument No. 35224; thence, South  $4^{\circ} 33' 50''$  West 672.28 feet along the west line of said tract to a point on the northerly right of way line of Lynx Hollow Road (County Road No. 1094); thence, North  $69^{\circ} 20'$  West along said right of way line to a point on the west line of the John F. Winter Donation Land Claim No. 40, said Township and Range; thence, North  $0^{\circ} 36'$  West along said west line to a point on a line parallel with the south line of the 30.00 acre tract monumented in that survey recorded at the Lane County Surveyor's Office under No. 23211, said parallel line being positioned so that it forms the south line of a 10.00 acre tract lying immediately south of said surveyed line and is bound on the east by the east line of said Claim No. 39 and on the west by the east line of said Claim No. 40; thence, North  $89^{\circ} 24'$  East 1743.33 feet, more or less, along said parallel line to a point on the east line of said Claim No. 39; thence, South  $0^{\circ} 36'$  East 589.85 feet, more or less, to the true point of beginning in Lane County, Oregon.

200 20-3-A

Lynx Hollow

CORRECTION DEED

Lloyd E. Cully and Theda L. Cully, Trustees of the Cully Family Trust u.a.d. March 28, 1991, Grantors, convey to Cully Properties, LLC, Grantee, the real property described in Exhibit A attached hereto and incorporated herein.

No true or actual consideration was paid for this conveyance as the same has been executed solely for purposes of correcting the name of the Grantors contained in deed from Lloyd E. Cully and Theda L. Cully, husband and wife, to Grantee effective December 30, 1999, and recorded in Lane County Official Records on January 7, 2000, under Recorder's Reception No. 2000000984.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Executed February 7, 2000, but effective December 30, 1999.

Lloyd E. Cully, Trustee Grantor

Theda L. Cully, Trustee Grantor

STATE OF OREGON )
County of Lane )ss

Personally appeared before me this 7th day of February, 2000, Lloyd E. Cully and Theda L. Cully, who being duly sworn did say they are the Trustees of the Cully Family Trust u.a.d. March 28, 1991.

Catherine Quimby
Notary Public for Oregon



DIVISION OF CHIEF DEPUTY CLERK
LANE COUNTY DEEDS AND RECORDS



26.00

2000007608 3:28:18 PM 02/08/2000
RPR DEED 1 7 CASHIER 05
\$ 00 11.00 10.00 0.00

Until further notice real property tax statements shall be forwarded to: Cully Properties, LLC, 82810 Bradford, Creswell, Oregon 97426

After recording return to: Malcolm H. Scott, P. O. Box 1147, Eugene, Oregon

045-01



LOT 4  
5.31  
(G.L.O.)

208  
10.00 AC.

200  
32.50 AC.

104

LOT 3  
23.97  
(G.L.O.)

101

LOT 2  
13.91  
(G.L.O.)

ROAD

205

County

103

County

LOT 7  
27.60  
(G.L.O.)

Road

107  
17.01 AC.

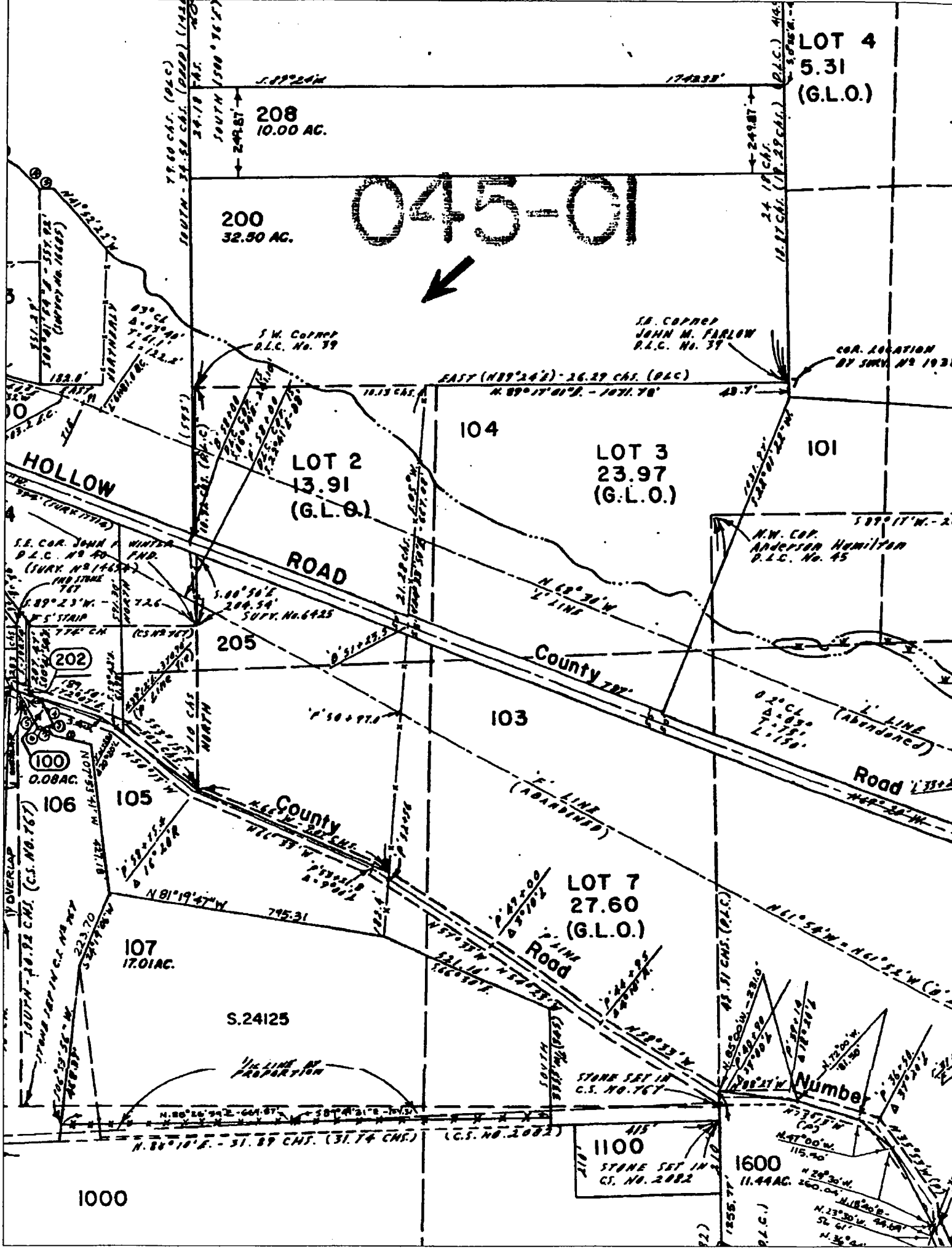
S.24125

1/4 LINE BY PROPORTION

1100  
STONE SET IN  
C.S. NO. 2082

1600  
11.44 AC.

1000





December 10, 2004

Lane County Public Works  
Land Management Division

To whom it may concern;

I Lloyd Cully intend to dispute the zoning on tax map 20-30-04-00 lot #200.  
A more exact description by reference to deed or land sales contract recorded on  
April 19, 1907, page 584.

My agent will be Tony Chapman  
PO Box 1030  
Creswell, OR 97426  
Cell 1-541-954-9960

Signed by Lloyd Cully Lloyd Cully Date 12-10-04

**For Witnessing or Attesting a Signature:**

State of: Oregon County of: Lane  
 Signed or Attested before me on 12-10-2004

Name of signer: Lloyd Cully

Jeanie Rosenburg ~ Notary Public ~ Oregon

Signature of Notarial Officer: Jeanie Rosenburg





Two Summary Appraisal Reports of a Complete Appraisal of

vacant acreage located at

Tax Lot 20-03-04-00-00200

A 32.49 acre site, the "before" instance  
(surveyed, one legal lot)

AND

Portion of Tax Lot 20-03-04-00-00200

A five acre hypothetical site, the "after" instance  
(unsurveyed, not a legal lot or partitioned site at this time)

Address:

Number Not Assigned Lynx Hollow Road  
Creswell, Oregon 97426

Client:

Cully Properties LLC

c/o Tony Chapman, agent  
P.O. Box 1030  
Creswell, Oregon 97426

Purpose of the Appraisal:

To estimate market value of actual and hypothetical parcels subject to certain conditions  
outlined in the text and exhibits of the reports 120704A and 120704B

Use of the Appraisal:

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

Date of Most Recent Inspection  
and Effective Date of Report:  
December 24, 2004

Report Completion Date:  
January 26, 20054

Prepared by:

Craig E. McKern, Appraiser, P.C.  
Certified Residential Real Estate Appraiser  
1574 Coburg Road, PMB 397  
Eugene, Oregon 97401-4802  
files 120704A and 120704B

# PHOTOGRAPH ADDENDUM 0.

Borrower/Client	No borrower						
Property Address	NNA Lynx Hollow Road						
City	Creswell	County	Lane	State	OR	Zip Code	97426
Lender	Cully Properties LLC c/o Tony Chapman, agent						

Looking east along Lynx Hollow Road from near southwest corner of site



Looking east along south property line toward east property line of south portion of site



Looking northeast across south portion of site toward hillside north portion of site with lynx Hollow Creek in trees at left

Note brambles and sawgrass



**PHOTOGRAPH ADDENDUM T**

Borrower/Client	No borrower						
Property Address	NNA Lynx Hollow Road						
City	Creswell	County	Lane	State	OR	Zip Code	97426
Lender	Cully Properties LLC c/o Tony Chapman, agent						

Older barn on southwest portion of site (see aerial photo), looking north toward Lynx Hollow Creek in ash and oak tree line



Looking northeast from near northeast corner of Tax Lot 104 toward east line of upper subject property

Most of larger trees are on Tax Lot 104



Looking northwest from same point as above toward subject site beyond the left tree line

Subject site was mostly cutover in the past.

Manufactured home on Tax Lot 104 to far left





# LAND APPRAISAL REPORT

File No 120704A

## Summary Appraisal Report

**Borrower** No borrower Census Tract 12.01 Map Reference See Below  
**Property Address** Number Not Assigned Lynx Hollow Road (Tax Lot 20-03-04-00-00200)  
**City** Creswell **County** Lane **State** OR **Zip Code** 97426  
**Legal Description** Lengthy Metes and Bounds Legal Description\ \ \ see deed attached  
**Sale Price** \$ Not Sold **Date of Sale** N/A **Loan Term** N/A **Property Rights Appraised**  Fee  Leasehold  De Minimis PUD  
**Actual Real Estate Taxes** \$ 112.13 (yr) **Loan charges to be paid by seller** \$ N/A **Other sales concessions** Not Applicable  
**Lender/Client** Cully Properties LLC c/o Tony Chapman, agent **Address** P.O. Box 1030, Creswell, Oregon 97426  
**Occupant** Vacant Land **Appraiser** Craig E. McKern **Instructions to Appraiser** appraise to market value per USPAP standards  
Craig E. McKern, Appraiser, P.C. 1574 Coburg Road, PMB 397, Eugene, Oregon 97401 telephone 541-345-0744 facsimile 541-345-0577

<b>Location</b>	<input type="checkbox"/> Urban	<input type="checkbox"/> Suburban	<input checked="" type="checkbox"/> Rural	<b>Good Avg. Fair Poor</b>
<b>Built Up</b>	<input checked="" type="checkbox"/> Over 75%	<input type="checkbox"/> 25% to 75%	<input type="checkbox"/> Under 25%	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Growth Rate</b>	<input type="checkbox"/> Fully Dev.	<input type="checkbox"/> Rapid	<input type="checkbox"/> Steady	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Property Values</b>	<input type="checkbox"/> Increasing	<input checked="" type="checkbox"/> Stable	<input type="checkbox"/> Declining	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Demand/Supply</b>	<input type="checkbox"/> Shortage	<input checked="" type="checkbox"/> In Balance	<input type="checkbox"/> Oversupply	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Marketing Time</b>	<input checked="" type="checkbox"/> Under 3 Mos.	<input checked="" type="checkbox"/> 4-6 Mos.	<input type="checkbox"/> Over 6 Mos.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Present Land Use</b>	<input type="checkbox"/> 80% 1 Family	<input type="checkbox"/> % 2-4 Family	<input type="checkbox"/> % Apts.	<input type="checkbox"/> % Condo
	<input type="checkbox"/> 5% Industrial	<input type="checkbox"/> 10% Vacant	<input type="checkbox"/> 5% public uses, other	
<b>Change in Present Land Use</b>	<input type="checkbox"/> Not Likely	<input type="checkbox"/> Likely (*)	<input checked="" type="checkbox"/> Taking Place (*)	
	(*) From <u>vacant/undeveloped</u> To <u>residential</u>			
<b>Predominant Occupancy</b>	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant	<input type="checkbox"/> 5 % Vacant	
<b>Single Family Price Range</b>	\$ <u>100</u> to \$ <u>500+</u>		Predominant Value \$ <u>300+-</u>	
<b>Single Family Age</b>	<u>&lt;5</u> yrs. to <u>80+</u> yrs.		Predominant Age <u>20-50</u> yrs.	

**Comments** including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject is located about 5 road miles southeast of Creswell and about 4 miles northwest of Cottage Grove in the far east foothills of the Coast Range. The area has developed over the past 125+ years with a wide range of improvement types on 1+ to 100+ acre homesites, farms and ranches. Dedicated timberland (F-1 zone) acreages are excluded from the vacant land percentage. Spot industrial includes car wrecking yards, a railroad line, other uses, see below.

**Dimensions** Irregular, see plat map = 32.49 Sq. Ft. or Acres  Corner Lot  
**Zoning classification** EFU Exclusive Farm Use (30 acre minimum) **Present Improvements**  do  do not conform to zoning regulations  
**Highest and best use**  Present use  Other (specify) possible partition into five various size residential parcels under Marginal Lands rules  
**Elec.**  Public  Other (Describe) \_\_\_\_\_ **Topo** Level to slight to moderate south slope  
**Gas** \_\_\_\_\_ **Street Access**  Public  Private **Size** Larger than typical for area  
**Water** \_\_\_\_\_ **Surface** Asphalt **Shape** "L" shaped with road frontage on Lynx Hollow Road  
**San Sewer** \_\_\_\_\_ **Maintenance**  Public  Private **View** Wooded, creek through property  
 Storm Sewer  Curb/Gutter **Drainage** Adequate; FEMA map 41039C-2085F 06-20-1999; Zone X  
 Sidewalk  Street Lights **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): Majority of site is south sloping hillside with a mainly Natroy (85) Silty Clay Loam soil, rated Class IVw south of creek flatlands; Waldo (130) S.C.L. rated Class IIIw above creek on west third of upper bench area; Nekia (89) S.C.L. series rated Class IIIe and VIe on the south slope above and east of the dogleg corner. See aerial photo, comments attached. This report assumes one buildable homesite would be approved by Lane County; if no homesite, value would be decreased

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
<b>Address</b>	<u>NNA Lynx Hollow Road Creswell</u>	<u>Tax Lots 19-02-28-00-0805 &amp; 0806, Creswell (Bear Creek)</u>	<u>Tax Lot 22-03-28-00-0901 Cottage Grove (London dist.)</u>	<u>Tax Lot 15-06-35-44-00200 Junction City (Cheshire district)</u>
<b>Proximity to Subject</b>		<u>6 air miles northeast</u>	<u>13 air miles southeast</u>	<u>35 air miles northwest</u>
<b>Sales Price</b>	<u>\$ Not Sold</u>	<u>\$ 175,000</u>	<u>\$ 120,000</u>	<u>\$ 120,000</u>
<b>Price</b>				
<b>Data Source</b>	<u>Insp /Agent/County</u>	<u>RE/max Integrity/County Rclds</u>	<u>Eric Sprado Realty / County</u>	<u>John L Scott Real Estate/County</u>
<b>Date of Sale and Time Adjustment</b>	<u>DESCRIPTION</u>	<u>+(-) \$ Adjust.</u>	<u>DESCRIPTION</u>	<u>+(-) \$ Adjust.</u>
	<u>12-24-2004</u>	<u>01-2005 (COE) 0</u>	<u>11-2004 (COE) 0</u>	<u>01-2005 (COE) 0</u>
<b>Location</b>	<u>Average</u>	<u>Average plus -10,000</u>	<u>Average minus +10,000</u>	<u>Average</u>
<b>Site/View</b>	<u>32.49ac/Wds/Creek</u>	<u>32ac/Wds/Creek -10,000</u>	<u>20.11/Wds, Hills +12,000</u>	<u>17 ac/ Hills, Woods +15,000</u>
<b>Utilities / Driveway</b>	<u>At road/ limited rock</u>	<u>At road/ limited rock</u>	<u>At road/ limited rock</u>	<u>At road/ rocked -3,000</u>
<b>Slope/buildability</b>	<u>Level to south slope</u>	<u>Rolling south slope 0</u>	<u>Rolling east slope 0</u>	<u>Rolling north slope 0</u>
<b>Well &amp; Septic Sys.</b>	<u>Permitted at costs</u>	<u>Permitted at costs</u>	<u>Permitted at costs</u>	<u>Installed/Unaprved -5,000</u>
<b>Improvements</b>	<u>Older barn/ fence</u>	<u>No improvements +5,000</u>	<u>No improvements +5,000</u>	<u>No improvements +5,000</u>
<b>Sales or Financing Concessions</b>	<u>Cash to Seller</u>	<u>Cash</u>	<u>Cash to Seller via Private financing</u>	<u>Cash</u>
<b>Net Adj. (Total)</b>		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ <u>15,000</u>	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ <u>27,000</u>	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ <u>12,000</u>
<b>Indicated Value of Subject</b>		<u>Net 8.6 % \$ 160,000</u>	<u>Net 22.5 % \$ 147,000</u>	<u>Net 10.0 % \$ 132,000</u>

**Comments on Market Data:** Very limited recent market data for similar parcels forces use of distant Sale 3, zoned for 5 acre parcels, cutover in 1999; buyer assumed all future development potentials, risks. Sale 1 is about equal distance from Creswell compared to subject, included two legal lots, one approved building site, southerly views and a year round creek; long escrow due to need for lot line adjustments and special \*\*\*\*  
**Comments and Conditions of Appraisal:** The appraisal is made to cash equivalency per USPAP and FIRREA guidelines and USPAP departure provisions do not apply. See attached assumptions, limiting conditions and comments. \*\*\*\* use permit on F-2 zoning for dwelling. Sale 2 is about 10 miles south of Cottage Grove, more distant from schools and services, and buyer assumed all future development potentials, risks at this price. There was no legal access at sale however past access through Weyerhaeuser land had been allowed. Overall, the sales adjust \*\*\*\*  
**Final Reconciliation:** The market data (sale comparison) approach is the only reliable method of estimating vacant or non-residential site value. The cost approach is omitted as there is minimal value for the improvements on site. The income approach does not normally apply to vacant land. \*\*\*\* to a fairly wide range of indicated values with emphasis on Sale 2 as adjusted. Appraised value assumes one buildable homesite.

**I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF** December 24, 2004 **to be \$** 145,000  
 Any value in standing trees on the site is included as woodlot value or as natural landscape; no timber cruise was made available; the site was logged in the past and present standing trees are residual of limited value.  
**Appraiser(s)** Craig E. McKern  Did  Did Not Physically Inspect Property  
 Review Appraiser (if applicable)

[Y2K]

**LAND APPRAISAL REPORT**

FILE NO. 120704B

**Summary Appraisal Report**

File No. 120704B

**IDENTIFICATION**

Borrower No borrower Census Tract 12.01 Map Reference See Below  
 Property Address Number Not Assigned Lynx Hollow Road (Hypothetical Portion of Tax Lot 20-03-04-00-00200)  
 City Creswell County Lane State OR Zip Code 97426  
 Legal Description Lengthy Metes and Bounds Legal Description see deed attached  
 Sale Price \$ Not Sold Date of Sale N/A Loan Term N/A yrs. Property Rights Appraised  Fee  Leasehold  De Minimis PUD  
 Actual Real Estate Taxes \$ 112.13 (yr) Loan charges to be paid by seller \$ N/A Other sales concessions Not Applicable  
 Lender/Client Cully Properties LLC c/o Tony Chapman, agent Address P.O. Box 1030, Creswell, Oregon 97426  
 Occupant Vacant Land Appraiser Craig E. McKern Instructions to Appraiser appraise to market value per USPAP standards  
Craig E. McKern, Appraiser, P.C. 1574 Coburg Road, PMB 397, Eugene, Oregon 97401 telephone 541-345-0744 facsimile 541-345-0577

**NEIGHBORHOOD**

Location  Urban  Suburban  Rural  Good Avg Fair Poor  
 Built Up  Over 75%  25% to 75%  Under 25%  
 Growth Rate  Fully Dev.  Rapid  Steady  Slow  
 Property Values  Increasing  Stable  Declining  
 Demand/Supply  Shortage  In Balance  Oversupply  
 Marketing Time  Under 3 Mos.  4-6 Mos.  Over 6 Mos.  
 Present Land Use 80% 1 Family % 2-4 Family % Apts. % Condo % Commercial  
5% Industrial 10% Vacant 5% public uses, other  
 Change in Present Land Use  Not Likely  Likely (\*)  Taking Place (\*)  
 (\*) From vacant/undeveloped To residential  
 Predominant Occupancy  Owner  Tenant 5 % Vacant  
 Single Family Price Range \$ 100 to \$ 500+ Predominant Value \$ 300+-  
 Single Family Age <5 yrs. to 80+ yrs. Predominant Age 20-50 yrs.

Employment Stability      
 Convenience to Employment      
 Convenience to Shopping      
 Convenience to Schools      
 Adequacy of Public Transportation      
 Recreational Facilities      
 Adequacy of Utilities      
 Property Compatibility      
 Protection from Detrimental Conditions      
 Police and Fire Protection      
 General Appearance of Properties      
 Appeal to Market

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject is located about 5 road miles southeast of Creswell and about 4 miles northwest of Cottage Grove in the far east foothills of the Coast Range. The area has developed over the past 125+ years with a wide range of improvement types on 1+ to 100+ acre homesites, farms and ranches. Dedicated timberland (F-1 zone) acreages are excluded from the vacant land percentage. Spot industrial includes car wrecking yards, a railroad line; other uses, see below.

**SITE**

Dimensions 550' x 400' more or less (hypothetical) = 5.0 Sq. Ft. or Acres  Corner Lot  
 Zoning classification EFU Exclusive Farm Use (30 acre minimum) Present Improvements  do  do not conform to zoning regulations  
 Highest and best use  Present use  Other (specify) possible partition into five various size residential parcels under Marginal Lands rules  
 Public  Other (Describe) \_\_\_\_\_  
 Elec.  \_\_\_\_\_  
 Gas \_\_\_\_\_  
 Water \_\_\_\_\_  
 San. Sewer \_\_\_\_\_  
 Underground Elect. & Tel. \_\_\_\_\_  
 OFF SITE IMPROVEMENTS  
 Street Access  Public  Private  
 Surface Asphalt  
 Maintenance  Public  Private  
 Storm Sewer  Curb/Gutter  
 Sidewalk  Street Lights  
 Topo Level to slight north slope to creek bottom  
 Size Typical of the area  
 Shape Trapezoidal  
 View Hills, Wooded along Lynx Hollow Creek through property  
 Drainage Adequate; FEMA map 41039C-2085F 06-20-1999, Zone X  
 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): Hypothetical five acre site constructed to demonstrate "after" condition under Measure 37 guidelines. Hypothetical site located at far southwest corner of Tax Lot 200; soils are Salkum silty clay loam (121B, Class IIe) in the SW corner which is the preferred homesite and septic field location; also Natroy SCL (85, Class IVw). This report assumes one buildable homesite would be approved by Lane County; if no homesite, value would be decreased to farmland values.

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	<u>NNA Lynx Hollow Road Creswell (hypothetical site)</u>	<u>Tax Lot 20-03-20-00-01200 Cottage Grove (Bennett Cr. Rd)</u>	<u>Tax Lot 20-03-09-00-02100 Cottage Grove (Cea-Jack Rd)</u>	<u>Tax Lot 19-04-21-00-01400 Creswell (Hamm Road)</u>
Proximity to Subject		<u>2 air miles south</u>	<u>1.5 air miles southeast</u>	<u>7 air miles northwest</u>
Sales Price	<u>Not Sold</u>	<u>\$ 70,000</u>	<u>\$ 110,000</u>	<u>\$ 65,000</u>
Price				
Data Source	<u>Insp./Agent/County</u>	<u>Coldwell Banker CIR Realty/</u>	<u>RE/max Integrity/Inspection</u>	<u>RE/max Integrity/Inspection</u>
Date of Sale and Time Adjustment	<u>DESCRIPTION</u>	<u>DESCRIPTION</u>	<u>DESCRIPTION</u>	<u>DESCRIPTION</u>
	<u>12-24-2004</u>	<u>05-2004 (COE)</u>	<u>06-2004 (COE)</u>	<u>07-2004 (COE)</u>
Location	<u>Average</u>	<u>Average plus</u>	<u>Average plus</u>	<u>Average minus</u>
Site/View	<u>5.0 ac/Creek, Hills</u>	<u>4.18ac/Creek, Hills</u>	<u>5.5 ac/Valley, Wds</u>	<u>7.75ac/Hills, Wds</u>
Utilities / Driveway	<u>At road/ limited rock</u>	<u>Installed/Rocked</u>	<u>At road/ limited rock</u>	<u>At road/ limited rock</u>
Slope/ buildability	<u>Level to slight</u>	<u>Benched slopes</u>	<u>Sloped to east</u>	<u>Benched slopes</u>
Well & Septic Sys.	<u>Permitted at costs</u>	<u>Installed/Approved</u>	<u>Permitted at costs</u>	<u>Permitted at costs</u>
Improvements	<u>Older barn/ fence</u>	<u>No improvements</u>	<u>Partial fence</u>	<u>No improvements</u>
Sales or Financing Concessions	<u>Cash to Seller</u>	<u>Cash</u>	<u>New Conv. Loan No Points, Costs</u>	<u>New Conv. Loan No Points, Costs</u>
Net Adj. (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ <u>10,000</u>	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ <u>22,000</u>	<input type="checkbox"/> + <input type="checkbox"/> - \$
Indicated Value of Subject		<u>Net 14.3 % \$ 60,000</u>	<u>Net 20.0 % \$ 88,000</u>	<u>Net % \$ 65,000</u>

**MARKET DATA ANALYSIS**

Comments on Market Data: Very little recent sale or listing data for similar 3 to 8 acre buildable parcels in the Creswell area forces use of somewhat dated sales in the subject's general location. Sale 1 located about 2 miles from Cottage Grove, closer to services, shopping, benched homesite and circular drive installed, Bennett Creek across site. Sale 2 located above valley floor, no creek, has wide view to east across valley to \*\*\*\*\*  
 Comments and Conditions of Appraisal: The appraisal is made to cash equivalency per USPAP and FIRREA guidelines and USPAP departure provisions do not apply. See attached assumptions, limiting conditions and comments. \*\*\*\*\* Cascade Range foothills, is within 2 miles of Cottage Grove in the Saginaw area. Both Sales 1 and 2 are judged in somewhat superior locations versus the subject due to proximity to urban services; Sale 2 price reflects good view and protection from detriments. Sale 3 located in Lorane area and in Lorane School District and is \*\*\*\*\*  
 Final Reconciliation: The market data (sale comparison) approach is the only reliable method of estimating vacant or non-residential site value. The cost approach is omitted as there is minimal value for the improvements on site. The income approach does not normally apply to vacant land. \*\*\*\*\* nine miles west of Creswell in a wooded hilly area with views, benched homesite. Appraised value assumes one buildable homesite.

**RECONCILIATION**

I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF December 24, 2004 to be \$ 70,000  
 Any value in standing trees on the site is included as woodlot value or as natural landscape; no timber cruise was made available and the typical purchaser of wooded suburban and rural parcels is seeking to preserve and enhance a homesite.  
 Appraiser(s) Craig E. McKern  Did  Did Not Physically Inspect Property  
 Review Appraiser (if applicable) \_\_\_\_\_

Borrower: No borrower	File No. 120704A
Property Address: Number Not Assigned Lynx Hollow Road (Tax Lot 20-03-04-00-00200)	
City: Creswell	County: Lane State: OR Zip Code: 97426
Lender: Cully Properties LLC c/o Tony Chapman, agent	

### APPRAISAL AND REPORT IDENTIFICATION

This appraisal conforms to one of the following definitions:

Complete Appraisal (The act or process of estimating value, or an opinion of value, performed without invoking the Departure Rule.)

Limited Appraisal (The act or process of estimating value, or an opinion of value, performed under and resulting from invoking the Departure Rule.)

This report is one of the following types:

Self Contained (A written report prepared under Standards Rule 2-2(a) of a Complete or Limited Appraisal performed under STANDARD 1.)

Summary (A written report prepared under Standards Rule 2-2(b) of a Complete or Limited Appraisal performed under STANDARD 1.)

Restricted (A written report prepared under Standards Rule 2-2(c) of a Complete or Limited Appraisal performed under STANDARD 1, restricted to the stated intended use by the specified client or intended user.)

### Comments on Standards Rule 2-3

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and no (or the specified) personal interest with respect to the parties involved.

I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

My analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.

I have made a personal inspection of the property that is the subject of this report.

No one provided significant real property appraisal assistance to the person signing this certification. (If there are exceptions, the name of each individual providing significant real property appraisal assistance must be stated.)

I have made a personal interior inspection of the subject property.

A lengthy period passed between the date of inspection and the date of completion as the appraiser performed a variety of investigations on Measure 37 and its ramifications for the subject property. There is no guarantee from the appraiser that the attached report(s) will be found fully satisfactory to the Lane County jurisdiction for handling Measure 37 claims, as these requirements may change due to court ordered or Legislature passed modifications.

### Comments on Appraisal and Report Identification

Note any departures from Standards Rules 1-3 and 1-4, plus any USPAP-related issues requiring disclosure:

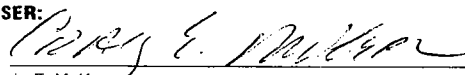
This appraisal report is complete on the basis of the full site inspection, not the extent of commentary attached.

The appraised value includes a realty fee as did the sale prices of the comparables, unless otherwise stated.

There were directly observed toxic materials or hazardous substances in the immediate area of the subject and these are assumed to be safely stored and used according to label directions. A specific search for and recognition of toxic waste and hazardous materials such as might be found in a farm and ranch environment (a Level 1 assessment) is beyond the scope of the appraiser's training and knowledge. Common household, shop and garden chemicals and substances found in most homes and garages, including those of the reader, are assumed to exist around the site. These common toxic materials and hazardous substances include chemicals such as fertilizers, weed killers, pest poisons and sprays, bleach, detergent, oils, cleansers, solvents and fuels, among other solid, liquid and paste substances, and are assumed to be used according to label directions and Federal, state and local regulations unless otherwise specifically noted in this report. It is specifically assumed there is no toxic mold or fungus manifest on the site which would affect livability or marketability.

See attached supplemental addendum. This report has been prepared for use in a State Measure 37 proceeding and is restricted to that use only. See the cover letter page for brief explanations of the use and purpose of this report 120704A in conjunction with report 120704B which is for a hypothetical five acre parcel out of the 32 acres of the report in hand in order to provide "before and after" scenarios. The actual legality, validity and application of State Measure 37 is still in question with present and future court and Legislature involvements a certainty.

**APPRAISER:**

Signature: 

Name: Craig E. McKern

Date Signed: January 26, 2005

State Certification #: CR00024

or State License #: \_\_\_\_\_

State: Oregon

Expiration Date of Certification or License: 09-30-2006

**SUPERVISORY APPRAISER (only if required):**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date Signed: \_\_\_\_\_

State Certification #: email: cem9th@msn.com

or State License #: phone 541-345-0744/fax 541-345-0577

State: \_\_\_\_\_

Expiration Date of Certification or License: \_\_\_\_\_

Did  Did Not Inspect Property

Borrower/Client		No borrower	
Property Address			
Number Not Assigned Lynx Hollow Road (Tax Lot 20-03-04-00-00200)			
City	Creswell	County	Lane
State	OR	Zip Code	97426
Lender			
Cully Properties LLC c/o Tony Chapman, agent			

**Appraisal Development and Reporting Process:**

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

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

**Scope of Work:**

In preparing this report, the appraiser inspected the subject site on December 24, 2004. All three approaches to value were considered; the sales comparison approach alone was developed. The cost and income approaches do not typically apply to vacant land.

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

The purpose of this appraisal report is to estimate the market value as defined on the attached certification/limiting conditions addendum (FNMA Form 1004B/FHLMC Form 439, revised 6/93). The market value is for the subject site "as is" in making a report useful in State Measure 37 proceedings planned by the client in the near future.

This appraisal report is intended ONLY for the use of the client named for the purpose of establishing an independent third party opinion of the value of the subject "as is" and use of this report is restricted to the client named for the benefit of the client named in conjunction with the State Measure 37 proceedings noted above.

Therefore, Lane County as a public entity is also expected to be a known user or reader of this report however Lane County is not the client of the appraiser. This report is not intended for any financing purposes whatsoever in its present configuration. Any other authorized use of this report will be stated either below or in the letter of engagement.

The appraiser is not and will not become responsible for any unauthorized use. Errors and omissions insurance is not extended to a future third party reader or user including Lane County.

**Supplemental Certifications:**

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

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

signed and dated January 28, 2005

Craig E. McKern  
president  
Craig E. McKern Appraiser P.C.

