

W. T. D.



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: April 25 , 2006

AGENDA DATE: May 3, 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 05-6207, Davies)

I. MOTION

Move to approve the Measure 37 Claim and adopt the order attached as Exhibit "A".

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 Walter and Marie Davies to use the property as allowed at the time they acquired the property?

III. DISCUSSION

A. Background

Applicant: Walter and Marie Davies

Current Owner: Walter and Marie Davies

Agent: Daniel Stotter, 627 Country Club Rd, Suite 200, Eugene OR 97401

Legal Description of Property: 21-03-34, taxlot 203

Acreage: 44 acres

Current Zoning: F1 (Nonimpacted Forest)

Date Property Acquired: September 16, 1977 (Warranty Deed #7760336)

Date claim submitted: August 18, 2005. (A timeline waiver was submitted on January 12, 2006.) The new deadline was April 9, but was held until after March 21 to allow for new direction from the County Commissioners.

Land Use Regulations in Effect at Date of Acquisition: F-F 20 (Farm-Forestry 20). LC 10.020.

County land use regulation which restricts the use and reduces the fair market value of claimant's property: LC 16.210 F1 (Nonimpacted Forest)

B. Specific Relief Sought:

The applicant has requested compensation of \$191,700 or a waiver of the F1 (Nonimpacted Forest) zone regulations that prohibit the division of the property into twenty-acre parcels and development of single family dwelling.

C. Lane Code Submittal Requirements

The applicant has paid the processing fee and submitted evidence in support of this claim. This evidence includes an opinion of value from a real estate broker.

D. Analysis

The property contains at least two dwellings built without any building permits or land use approvals. The applicant wants to divide the property into twenty-acre parcels and place a dwelling on each parcel. If this claim is determined to be valid, all existing structures must obtain building permits and comply with any other with health and safety requirement.

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

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

Restrictive Regulations

The current owner acquired the property on September 16, 1977 (Warranty Deed #7760336) when it was zoned FF20 (Farm-Forest). That zone required a minimum parcel size of 20 acres and dwellings were allowed. The current F1 (Nonimpacted Forest) zone does not allow new dwellings and requires at least 80 acres for new parcels. Because of these limitations, the current owner is prevented from developing the site as might have been allowed in 1977.

Reduction in Fair Market Value

The applicant has submitted an opinion of value from a real estate broker. Based on that opinion, the reduction in value is \$191,700.

The property was zoned FF-20 (Farm-Forest) when it was acquired on September 16, 1977. That zone required a minimum parcel size of 20 acres and dwellings were allowed. Currently, the property is zoned F1 (Nonimpacted Forest), the minimum parcel size is 80 acres and new dwellings are not allowed. Dwellings that lawfully existed prior to September 29, 1984, may be maintained or relocated.

The opinion of value does not demonstrate a reduction in fair market value resulting from a land use regulation. However, the increased minimum parcel size and the prohibition on new dwellings in the F1 zone may reasonably be assumed to cause some amount of reduction. Additional information is only needed if the Board wishes to limit the amount of development to reflect the amount of reduced value. As written, the attached order will allow development of up to two parcels that contain twenty acres and placement of a dwelling on each.

Exempt Regulations

The F1 (Nonimpacted Forest) limitation on new dwellings, and the minimum parcel size of 80 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710.

E. Conclusion/County Administrator Recommendation

It appears this is a valid claim and the County Administrator recommends the Board waive the restrictive land use regulations of the F1 (Nonimpacted Forest) zone that prohibit development by Walter and Marie Davies as might have been allowed when they acquired the property.

IV. ALTERNATIVES/OPTIONS

The Board has these options:

1. Determine the application appears valid and adopt the order attached to this memo.
2. Require more information regarding the alleged 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

The County Administrator recommends alternative #1.

VI. ATTACHMENTS

- Order to approve the Measure 37 claim of Walter and Marie Davies.
- Written claim dated August 18, 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 (Davies/ PA 05-6207)

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 Daniel Stotter on behalf of Walter and Marie Davies (PA05-6207), the owners of real property described in the records of the Lane County Assessor as map 21-03-34, tax lot 203, consisting of approximately 44 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 3, 2006, the Board conducted a public hearing on the Measure 37 claim (PA05-6207) of Walter and Marie Davies and has now determined that the restrictive F1 (Nonimpacted Forest) zone dwelling and land division requirements of LC 16.210 were enforced and made applicable to prevent Walter and Marie Davies from developing the property as might have been allowed at the time they acquired it on September 16, 1977, and that the public benefit from application of the current F1 dwelling and division land use regulations to the applicants' property is outweighed by the public burden of paying just compensation; and

WHEREAS, Walter and Marie Davies requests either \$191,700 as compensation for the reduction in value of their property, or waiver of all land use regulations that would restrict the division of land into twenty-acre parcels and placement of a single family dwelling on each lot, uses 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 F1 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 Walter and Marie Davies 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 applicants Walter and Marie Davies 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 Walter and Marie Davies shall be granted and the restrictive provisions of LC 16.210 that limit the development of dwellings and the division of land in the F1 (Nonimpacted Forest) Zone shall not apply to Walter and Marie Davies, so that they can make application for approval to develop the property more specifically described in the records of the Lane County Assessor as map 21-03-34, tax lot 203, in a manner consistent with the land use regulations in effect when they acquired the property on September 16, 1977.

IT IS HEREBY FURTHER ORDERED that Walter and Marie Davies still need to make application and receive approval of any division of the property or placement of a dwelling under the other land use regulations applicable to dividing the property or placing a dwelling that were not specifically identified or established by Walter and Marie Davies as restricting the division of the property or 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 or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of land divisions and any new dwellings 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 Walter and Marie Davies does not constitute a waiver or

modification of state land use regulations and does not authorize immediate division of the subject property or 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 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 4-25-2006 Lane County

Stephen J. Cochran
OFFICE OF LEGAL COUNSEL

BROMLEY NEWTON LLP

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

WILLIAM W. BROMLEY, P.C.

RUCE W. NEWTON, P.C.

JUDSON M. CARUSONE
ALSO LICENSED TO PRACTICE IN IDAHO

DANIEL J. STOTTER, P.C.

OF COUNSEL:

JOHN L. HENDERSON, P.C.

ATTORNEYS AT LAW

627 COUNTRY CLUB ROAD, SUITE 200
EUGENE, OR 97401

PHONE: (541) 343-4700

FAX: (541) 343-4713

August 18, 2005

Bill Van Vactor
Lane County Administrator
125 E 8th Avenue
Eugene, OR 97401

Office of Lane County Counsel
125 E 8th Avenue
Eugene, OR 97401

Re: Measure 37 Claim of Walter & Marie Davies - Tax Map 21-03-34, Tax Lot 203

Dear Mr. Van Vactor and Office of Lane County Counsel:

I am writing on behalf of our firm's clients, Walter & Marie Davies, in order to present a Measure 37 claim regarding our client's property located at Tax Map 21-03-34, Tax Lot 203, in Lane County, Oregon. I have enclosed a Lane County Application Form for Claims Under LC 2.700 - 2.770, a real estate valuation of our client's Measure 37 Claim prepared by Jim Belknap of Territorial Land Company, and a Property Profile of the subject property from Evergreen Land Title Company to assist Lane County in processing and evaluating this Measure 37 claim. Although Measure 37 expressly provides that any supplemental procedures enacted by local government's are not a prerequisite to filing a Circuit Court claim, our office is willing to work with County Staff to discuss any applicable fees or other materials necessary to assist in the county's review and public notice associated with this Measure 37 Claim.

As indicated in the attached materials, our clients purchased the subject property on September 16, 1977, and a deed was recorded for this property on September 22, 1997. See Lane County Recorder's Reception No. 7760336. At the time of purchase, the subject property was zoned Farm Forestry - 20 acre minimum parcel size (FF-20) which allowed dwellings as a permitted use, and which provided for the potential to divide the subject property in order to develop two residential dwellings. However, with the adoption of the Comprehensive Plan by Lane County in 1984, the subject property was re-zoned to Impacted Forestland (F-1), with an 80 acre minimum parcel size, and no provisions for the placement of a dwelling. As a result of recent enforcement actions by staff of the Lane County Land Management Division, our clients have now been notified that they need to file a Measure 37 Claim for a pre-existing dwelling they developed on this property, or enforcement actions and civil penalties by Lane County would issue, and consequently, our office was retained to address these issues through the filing of the present Measure 37 Claim.

In filing this Measure 37 Claim, our client's seek land use approval to allow the placement of their pre-existing residential dwelling on the subject property as provided by the FF-20 Zoning which was in effect at the time of their purchase of this property, and also for land use approval to have the option to divide the subject property into two lots, each with the opportunity for placement of a dwelling. In the alternative, our clients seek monetary compensation for their Measure 37 damages, in the sum of \$191,700, as set forth in the attached materials prepared by Real Estate Broker Jim Belknap from the Territorial Land Company.

Please feel free to call me at (541) 343-4700 if there are any additional materials or information needed by your office in order to evaluate this Measure 37 Claim, and to discuss any fees or other costs that may be applicable for the processing of this Measure 37 claim.

Thanks in advance for your assistance.

Very truly yours,

BROMLEY NEWTON LLP



Daniel J. Stotter, Attorney at Law

cc: ✓ Lane County Land Management Division
Clients

PA 056207

Measure 37 Claim Number: M37-

Application for Claims Under LC 2.700 through 2.770

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

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

1. Applicant/ Agent

<u>walter and marie Davies</u>	<u>125 11th street Florence, OR 97439</u>	<u>(541) 902-9200</u>
Applicant Name (Please Print)	Mailing Address	Phone
<u>Daniel Stroeter</u>	<u>627 Country Club, suite 200 Eugene, OR 97401</u>	<u>(541)-343-4700</u>
Agent Name (Please Print)	Mailing Address	Phone

2. Property Owner

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

<u>walter and marie Davies</u>	<u>same as above</u>	<u>same as above</u>
Property Owner Name (Please Print)	Mailing Address	Phone
_____	_____	_____
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 Tax map 21-03-34, Lot 203

Street Address N/A Legal Description Attached Yes

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).

F-1 Land Use zoning (1984) - see attached materials

5. Title Report

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

6. Appraisal/Regulatory Effect

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

see attached materials

7. Leases, Covenants, Conditions and Restrictions

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

see attached materials

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.

Dwelling and property division option per FF-20, or in the alternative, compensation in the sum of \$191,700.

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).

Owner(s) Signature

Date

Daniel J. Stotter, Bromley Newton LLP

Dan Stotter
Applicant/Agent Signature

Date

8-18-05

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.



TERRITORIAL LAND COMPANY, REALTORS 

Daniel J. Stotter, PC
Attorney at Law
Bromley Newton LLP
627 Country Club Road
Eugene, OR 97401

AUG 15 2005

Real Estate Offices:
1785 East Main St.
Mailing Address:
P.O. Box 865
Cottage Grove, OR 97424
541/942-9141
FAX 541/942-1653
www.territorialland.com

August 1, 2005

Re: Property of Walter and Marie Davies, Tax Map 21-03-34, Lot 203

Dear Mr. Stotter:

You have requested an opinion of value regarding the above referenced property. Specifically, your inquiry is addressed to the applicability of a Measure 37 claim with regards to the estimated market value of the subject property in light of currently imposed land use regulations and what the estimated market value would be if such land use regulations had not been imposed subsequent to the acquisition by the current owners. In other words, what would be the value of the property if the owners were still subject to the regulations that were in effect at the time they acquired the property and how does this differ from the value now with the imposition of the current land use regulations?

The date of acquisition by Walter and Marie Davies was September 16, 1977, see deed recorded September 22, 1977 under Lane County Recorder's Reception Number 7760336. As you have noted, at the time Mr. and Mrs. Davies acquired the property it was zoned Farm Forestry-20 acre minimum parcel size (FF-20). The FF-20 zoning allowed dwellings as a permitted use. Additionally, the property is a parcel of approximately 42.7 acres and had the potential to be divided into two lots, each with the opportunity for placement of a dwelling.

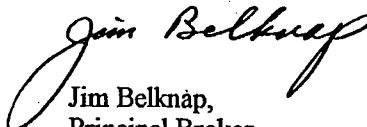
With the adoption of the current comprehensive plan in 1984 by Lane County, the property was zoned Impacted Forestland, or F-1, with an 80 acre minimum parcel size and no provisions for placement of a dwelling.

In evaluating the subject property for compensation under Measure 37 we considered the market value of the property as it currently is zoned, F1, with no allowance for dwellings or further division, arriving at an estimated value of \$48,300. Following that analysis, we evaluated the property as if it could be approved for placement of a single dwelling, though it would have been entirely appropriate to evaluate it for placement of two dwellings. Our opinion of value as a single building site is estimated at \$240,000. The difference between those two values is the potential for a claim of compensation under Measure 37.

Enclosed is a summary of the evaluations that have been completed. It is my opinion that the potential claim for compensation under Measure 37 is the amount of One Hundred Ninety-One Thousand, Seven Hundred Dollars (\$191,700.00).

If you have any questions please do not hesitate to give me a call.

Sincerely,


Jim Belknap,
Principal Broker

encl.

Davies Evaluation

Measure 37 Claim

Tax Lot 21-03-34-00-00203

August 10, 2005

**Prepared
by**

**James E. Belknap
Principal Broker
Territorial Land Company, Inc.**

Subject Property.

The Subject Property is recognized as being Tax Lot 203 in Lane County Tax Assessor's Map 21-03-34, being a parcel of approximately 42.7 acres located on Fox Lane near Cottage Grove, Oregon and just northeast of Cottage Grove Lake. The property is a mix of open grassland and young timber and is well placed for access to Cottage Grove and Interstate 5 with a commuting distance to the Eugene-Springfield area of approximately 29 miles. On the western boundary of the Subject Property is a rural subdivision of approximate five acre parcels that have been improved with above average housing. To the south and east is commercial forest land. To the north are 10 to 20 acre parcels with rural homesites.

The property is currently zoned F-1, Non-Impacted Forestland. This zoning does not allow for the placement of dwellings. As forest land, the property is average site ground and would entail some significant conversion expense to control the grass and brush that would compete with a young plantation of conifer. As a rural homesite, the subject property would command a strong market demand due to its close proximity to Cottage Grove Lake and easy commuting distance to either Cottage Grove or the Eugene-Springfield metropolitan area.

Evaluation Of The Subject Property Under Application of Existing F-1 Zoning-

Comparable Sales.

There is a substantial degree of difficulty in evaluating a property such as the Subject. Lands that are zoned F-1 are predominantly industrial timberlands and the sales are rather discreet, rarely reported through such sources as the multiple listing service. In addition, the minimum parcel size is 80 acres resulting in sales that tend to be larger blocks of land or sales that may include several parcels in one transaction with a single price reflecting the consideration of the combined tracts.

As forest land only the value is indicated in the following sales that have recently occurred for similar zoned lands with similar features as the Subject.

In the Spring of 2004 Premium Timberland Sales offered five tracts of reproduction timberland for sale by sealed bids. All of these sales were in the general market area of the Subject Property (Central Lane County) and four of them possessed many similar features to the Subject.

The sales were as follows:

1. Tract 1, Swamp Creek. This parcel was approximately 375 acres in size and was identified as Tax Lot 16-06-34-300. The property sold to Weyerhaeuser, an adjoining land owner, for \$427,000. The second position bid was at \$386,000. The property had approximately 269 thousand board feet (MBF) of merchantable timber, reflecting a contribution to value of about \$107,600. The reproduction varied in age from 30 acres of recently logged land that required replanting to 26 acres of 20 to 30 year old regeneration, similar in age to the Subject. The majority of the property, approximately 166 acres, was in 6 to 15 year old reproduction, with another 142 acres in 1 to 6 year old regeneration. After adjusting for the value of the merchantable timber, the indicated value for the reproduction land is approximately \$852 per acre.

2. Bolton Hill. This tract encompassed approximately 334.6 acres and was located in four different tax lots, specifically 18-06-11-201, 18-06-15-100, 18-06-15-101 and 18-06-15-400. The property had approximately 86 MBF of merchantable timber. The preponderance of the land, approximately 255 acres, was in 1 to 5 year old reproduction. 39 acres was in 6 to 10 year old reproduction and 10 acres was in 16 to 20 year old reproduction. The property sold for \$175,000, which after adjusting for the merchantable volume of timber at \$34,400, indicates a price per acre of \$420. This was quite average site land and with very young reproduction, reflected in the value per acre at which the property sold. This sale is difficult to compare to the Subject due to the very young age of the reproduction timber.

3. Mitchel. Approximately 334.7 acres located in Tax Lots 18-05-33-1100 and 19-05-4-104. The property had approximately 180 MBF of merchantable timber. 121 acres of the land was recently replanted to 5 year old seedlings and 30 acres was in 16 to 20 year old reproduction. The property sold for \$437,930 to Starker Forests. Adjusting approximately \$72,000 for the value of the merchantable timber, the indicated value for the reproduction land was approximately \$1,093 per acre. This was quite high site land and contributed significantly to the management of Starker's properties.

4. Willamette. This was a 525 acre tract of broadly varying age reproduction that sold for \$668,000. The property is located in tax lots 18-06-12-201, 18-06-12-301, 18-06-12-700, 18-05-7-3200 and 18-05-7-3202. There was a reforestation liability of approximately 77 acres of land that had not yet been planted. There was approximately 150 MBF merchantable timber that was basically one stand and readily harvestable. As noted, the reproduction was varied in age with approximately 113 acres of mostly 5 year old seedlings, 121 acres of 6 to 10 year old reproduction 107 acres of 11 to 16 year old reproduction and 84 acres of 16 to 20 year old trees. This was a high site III to site II index soil. After adjusting approximately \$60,000 for the merchantable timber the indicated value per acre for the reproduction land was approximately \$1,158 per acre.

Discussion.

While it is difficult to evaluate a 42 acre parcel in comparison to tracts of several hundred acres, the reflection of value based on forest land consideration only becomes evident when one considers the above comparable sales. Comparable No. 4, the Willamette Tract, and Comparable No. 3, the Mitchell Tract, offers the best comparable sales to be used in evaluation of the Subject Property based on the age of the reproduction timber on the Subject and also considering the non-stocked areas of the Subject. These sales indicate a range of value of \$1,093 to \$1,158 per acre.

Although the real estate market has been rapidly escalating the past three years, this appreciation is dominated by the residential market and driven by low mortgage rates. These factors in general do not have a strong effect on reproduction forest land values. The market for reproduction land is more typically affected by fluctuations in the value of standing timber and logs, which in general have been very stable over the past year. Accordingly, it is not appropriate to apply any appreciation rate to the comparable sales.

In summary, it is our company's opinion the market value of the Subject Property as reproduction forest land is approximately \$1,150 per acre or \$48,300.

Evaluation Of The Subject Property As If Provisions Of The FF-20 Zoning Were Still Applicable-

At the time of the current owner's acquisition of the Subject Property, September 16, 1977, the zoning in effect was Farm Forestry, 20 acre minimum parcel size, (FF-20), which specifically allowed for the placement of a dwelling. Lane Code 10.105-10, Permitted Uses, Subparagraph (5) specifies, "One single-family dwelling per lot or one mobile home per lot." The requirement for a Measure 37 claim is to establish the market value of the subject property as if the current zoning had not been imposed. Accordingly, it is appropriate to evaluate the property as if the FF-20 zoning were still in effect today.

Comparable Sales.

As a rural building site this property also is difficult to evaluate as there are relatively few sales to consider. The availability of rural building sites is rapidly drying up as the land use laws that restrict the divisibility of resource zoned parcels and apply rather exacting standards for placement of a dwelling come to be recognized in their full force. The effect of this limitation of supply is a dramatically escalating increase in value. It is simply economics 101, limited supply in relation to constant or increasing demand causes prices to escalate.

1. London Road. This is a 20.11 acre parcel of mixed pasture and young timber, zoned F-2 and conforming to applicable standards for placement of a dwelling. The property is located 1.5 miles south of the community of London, or about seven miles south of the Subject Property. No well or other improvements were included with the land, though it had paved road frontage. The property sold November 2, 2004 for \$120,000. Given the size of this parcel and that the Subject Property could effectively create two such tracts, the adjustment to value is to double this sale and make an adjustment for the costs of such development, estimated at \$10,000 for survey, access and associated costs. The result is a comparable value of \$230,000.
2. Cedar Creek Road. A 44.62 acre tract located approximately five miles from the Subject. This property had a Special Use Permit that allowed for the placement of a dwelling. The site is a mix of young forestland and grassland, quite similar to the Subject. The property sold January 29, 2001 for \$190,000.
3. 31776 Raiser Road. This is a 22.6 acre tract that encompasses two legal parcels, each approved for a dwelling. The property is mostly improved pasture land with some young timber and hardwoods. This property is approximately six miles from the Subject. The property sold November 21, 2003 for \$193,080.
4. Next to 78887 Bryson Sears Road. A 40.34 acre parcel approved for a dwelling with mixed pasture and 15 year old reproduction timber. This property is approximately nine miles from the Subject but with a similar orientation for access to I-5 and commuting to either Cottage Grove or the Eugene-Springfield area. The property sold April 9, 2002 for \$200,000.

Discussion.

Comparable No. 1 is the most recent sale with the other sales each being two to four years old. Comparable No. 2 has the features that are most similar to the Subject Property when considered as a single building site. Adjusting for market timing the brisk appreciation of values over the past three years, estimated at approximately 10% per year, would indicate a market value today of approximately \$250,000 for Comparable No. 2. Comparable No. 4 is also quite similar to the Subject in features and also reflects a strong similarity when considered as a single building site. Adjusting for market timing Comparable No. 4 indicates a market value of approximately \$250,000. Comparable No. 1 and No. 3 somewhat temper this estimate of value, leading us to conclude the market value may be slightly less than \$250,000.

When considering the Subject Property as a single building site of approximately 42 acres, the indicated market value is approximately \$240,000.

Summary of Comparison of Value Based on Application of Zoning-

The purpose of this report was to consider the estimated compensation due the land owner for the imposition of zoning subject to their acquisition of the Subject Property. In this case, the property was originally zoned Farm Forestry, 20 acre minimum parcel size, and could have been approved for the placement of two dwellings. Even if the purchasers had no desire to further divide the property, they were assured of the right of placement of at least one dwelling. The indication of value for such property today is \$240,000. Subsequent to their purchase the owners found their property re-zoned to Non-Impacted Forestland, F-1, with no ability to place a dwelling on the parcel. The effect of such a re-zoning was to limit its value to solely forest production, resulting in an estimated value today of \$48,300.

The compensation due the owners under Measure 37 is \$191,700.

9-22-77 R865

~~21-5-84~~

Safeco-155,245

7760336
WARRANTY DEED - STATUTORY FORM

TRI-PENTA INVESTORS, a partnership Grantor
conveys and warrants to WALTER M. DAVIES AND MARIE E. DAVIES, husband and wife

Grantee, the following described property free of encumbrances, except as specifically set forth herein.

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

SUBJECT TO:

1. Taxes for Fiscal year 1977-78 a lien in the amount to be determined, but not yet payable. H 7 - 2:7511 606
2. Transmission Line Easement, as granted to Mountain States Power Company, by J. S. Powell and Maybel Powell, recorded June 5, 1946 at Page 322 of Volume 137, Clerk's filing No. 13431, Lane County Oregon Deed Records (Blanket Easement).
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4. Trust Deed in favor of Carl P. Pepper, Beneficiary. Grantor: Tri-Penta Investors, a partnership, Trustee: Cascade Title Company dated July 1977, Recorded: July 21, 1977 Recorder's Reception No. 77-44943 in the original amount of \$5,000.00.

(IF INSUFFICIENT SPACE, CONTINUE DESCRIPTION ON ADDITIONAL PAGE)

The said property is free from all encumbrances except conditions, restrictions and easements of record and the above.

TRI-PENTA INVESTORS, a partnership

true consideration for this conveyance is \$ 41,000.00

Laurence E. Thorp

Dated September 16, 1977

STATE OF OREGON, County of Lane, ss. Personally appeared the above named

Laurence E. Thorp

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

DATED September 16 A.D. 19 77

My Commission Expires 9/3/81

Laurence E. Thorp
Notary Public for Oregon

After recording return to
SAFECO TITLE INSURANCE CO

P O Box 606

Cottage Grove, Oregon

NAME, ADDRESS, ZIP

Until a change is requested, mail all tax statements to:

WALTER M. DAVIES & MARIE E. DAVIES

NAME, ADDRESS, ZIP

7760336

Beginning at a point on the east line of and North 0° 25' 35" East a distance of 2797.59 feet from the southeast corner of the Henry M. Rodgers Donation Land Claim Number 56 in Township 21 South and Range 3 West of the Willamette Meridian in Lane County, Oregon; thence South 0° 28' 35" West 1175.39 feet to the south line of the Northwest Quarter of Section 34 in said Township and Range; thence South 89° 39' 15" East 1547.22 feet to the southeast corner of the Northwest Quarter of Section 34; thence North 0° 07' 35" West along the east line of said quarter section 1172.41 feet to the centerline of Sweeny Creek; thence northwesterly along the centerline of Sweeny Creek the following courses and distances; North 87° 36' 00" West 258.31 feet, North 60° 00' 00" West 63.95 feet, South 71° 00' 00" West 48.96 feet, North 60° 10' 00" West 161.73 feet, North 84° 34' 00" West 294.70 feet, North 63° 00' 00" West 131.80 feet, North 70° 35' 55" West 63.42 feet; thence leaving said centerline South 0° 28' 35" East 342.65 feet; thence North 76° 06' 45" West 578.20 feet to the place of beginning in Lane County, Oregon.

A 60 foot roadway easement with 30 feet lying on each side of the following described centerline;

Beginning at a point on the east line of and North 0° 25' 35" East a distance of 3467.10 feet from the southeast corner of the Henry M. Rodgers Donation Land Claim Number 56 in Township 21 South and Range 3 West of the Willamette Meridian in Lane County, Oregon; thence South 89° 31' 25" East 297.50 feet; thence South 19° 59' 00" East 200.00 feet; thence South 26° 43' 50" East 223.00 feet; thence South 67° 35' 00" East 201.00 feet; thence North 89° 07' 15" East 330.00 feet; thence South 0° 22' 20" West 108.70 feet to the centerline of Sweeny Creek.

7760336

EXHIBIT "A"

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

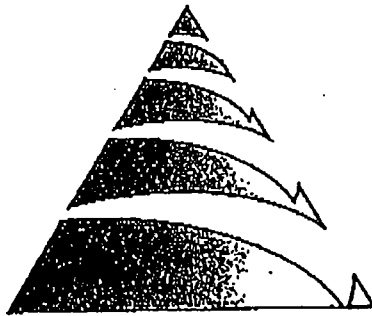
1977 SEP 22 AM 11 08

Reel 865 R

Lane County OFFICIAL RECORDS.

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

By DRALON
Clerk



Evergreen

Land Title Company

PROPERTY PROFILE

PREPARED FOR:	BROMLEY NEWTON ATTN: ELAINE FAX: 343-4713
PROPERTY:	21-03-34-00-00203
OWNER:	WALTER & MARIE DAVIES 125 11 TH STREET FLORENCE, OREGON 97439

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

August 18, 2005

PREPARED BY: KIM

The information provided is sourced from public documents and is not guaranteed, but deemed reliable.

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
 Phone (541) 741-1981
 Fax: (541) 741-0619



Branch Office:
 1509 Willamette Street
 Eugene, OR 97401
 Phone (541) 687-9794
 Fax: (541) 687-0924

**LANE COUNTY
 PROPERTY PROFILE INFORMATION**

Account# : 1184926	Owner Phone :
Owner : Davies Walter M & Marie E	Tenant Phone :
CoOwner :	Parcel # : 21 03 34 00 00203 000
Site : *no Site Address*	Census :
Mail : 125 11th St Florence Or 97439	Elem School :
Land Use : 641 For,Improved,Unzoned Farm Land	Mid School :
Stat. Class : Res,Single Family Res,Class 3	High School :
Zoning : F1	Acct Status 1 :
Legal : T1 00203	Acct Status 2 :
:	
:	

ASSESSMENT & TAX INFORMATION

RMV Total : \$216,295
RMV Land : \$162,435
RMV Imprvt : \$53,860
% Improved : 25
M50 Assd Tot : \$120,358
Prior Total : \$48,960
04-05 Taxes : \$1,160.23
Levy Code : 04509

PROPERTY CHARACTERISTICS

Bldg # : 1 of 1
Year Built : 1987
Bedrooms :
Bathrooms :
Bldg Sq Ft : 984
1st Floor : 624
2nd Floor : 360
Bsmt Fin SF :
Bsmt Unf SF :
Attic Unf SF :
Attic Fin SF :
Attic Sq Ft :
Lot Sq Ft : 1,860,012
Lot Size Ac : 42.70
Lot Dim. :
Stories :
Total Rooms :
Garage SF :
Roof Style : GABLE
Roof Mat'l : AVG CMP SHINGL
Exter. Wall : PLYWOOD
Deck Type :
Heat Method : NONE
Well : 1
Septic : 1
Driv'way SF :
Neighborhood : 50TR3

SALE & LOAN INFORMATION

Sale Date :
Sale Amount :
\$Cost/SqFt : \$
Document # :
Deed Type :
Loan Amount :
Lender :
Loan Type :
Interest Type :
Loan Type :

PRIOR SALE INFORMATION

Previous Transfer :
Previous Sale Amt :

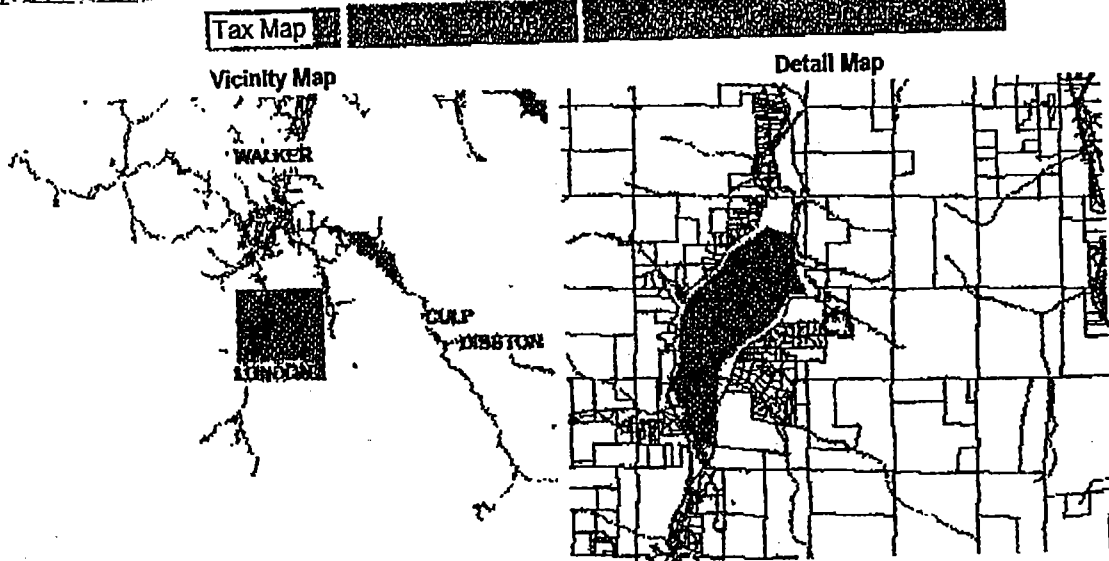
LANE COUNTY REGIONAL LAND INFORMATION DATABASE

Site Address:

Map & Tax Lot #: 21-03-34-00-00203

Special Interest Code:

A & T Account #: 1184926



Site Address State Plane Coordinates

X-Coord: 4249645

Y-Coord: 751969

Land Use

Land use information has not been field verified.

Land Use Code and Description:

Code: **8310** Description: **TIMBERLANDS**

Use Code and Description:

T **TIMBER**

Zoning

Please verify zoning information with local jurisdiction. Lane County overlay zones are not currently shown in RLID.

Zoning Jurisdiction:

Code: **LC** Description: **LANE COUNTY**

Parent Zone 1:

F1 **NONIMPACTED FOREST LANDS**

Boundary Information

General

Incorporated City Limits:

Urban Growth Boundary:

Fire Protection Providers:

Plan Designation:

Node:

N

2000 Census Tract:

1400

2000 Block Group:

1

Year Annexed:

Annexation #:

2004 Transportation Analysis Zone: 551

Approximate Acreage: 44.49

Approximate Square Footage: 1,937,984

Environmental Findings

Please verify environmental information with local jurisdiction.

Metro Flood Hazards:

Metro Wetlands:

FEMA Flood Hazard Zones

Note: Some parcels may extend onto adjacent FIRM maps. Registration between parcel boundaries and flood hazard zones is approximate. Community numbers are based on the current city limits and may not reflect boundaries at the date of map publication. Consult FIRM maps or appropriate authority

FIRM Map Number: **41039C2360F**
 Code: **X**
 Community Number: **415591**
 Description: **Areas determined to be outside of 500-year flood.**
 Post - FIRM Date: **1985-12-18**
 Panel Printed? (Y/N): **Y**

Soils	Soil Type Description:	Percentage of Tax Lot
Soil Map Unit Number:		
52D	HAZELAIR SILTY CLAY LOAM, 7 TO 20 PERCENT SLOPES	49
11D	BELLPINE SILTY CLAY LOAM, 12 TO 20 PERCENT SLOPES	17
11E	BELLPINE SILTY CLAY LOAM, 20 TO 30 PERCENT SLOPES	17
11F	BELLPINE SILTY CLAY LOAM, 30 TO 50 PERCENT SLOPES	16
113G	RITNER COBBLY SILTY CLAY LOAM, 30 TO 60 PERCENT SLOPES	0

Schools

District: **45J** Name: **SOUTH LANE**
 Elementary School: **LATHAM**
 Middle School: **LINCOLN**
 High School: **COTTAGE GROVE**

Service Districts

LTD Service Area:

LTD Ride Source:

Ambulance District: **SO** Area: **SOUTHERN** Provider: **COTTAGE GROVE FIRE & AMBULANCE DEPT**

Emerald People's Utility District: **1**
 Soil Water Conservation District: **EAST LANE**
 Soil Water Conservation District Zone: **0**

Political Districts

Election Precinct: **100107**
 County Commissioner District: **5** EAST
 County Commissioner: **FAYE STEWART**
 State Representative District: **7**
 State Representative Name: **BRUCE HANNA**
 City Council Ward:
 City Councilor Name:
 State Senate District: **4**
 State Senator: **FLOYD PROZANSKI**
 LCC Board Zones: **4**

EWEB Commissioner District:

Lane County Assessor's Office | Account Number: 1184926 | Map & Tax Lot: 21-03-34-00-00203

Property Owner

Owner Name: **DAVIES WALTER M & MARIE E**
 Owner Address: **125 11TH ST**

City	State	Country	Zip Code
FLORENCE	OREGON	UNITED STATES	97439

Taxpayer

Taxpayer Name: **DAVIES WALTER M & MARIE E**
 Taxpayer Address: **125 11TH ST**

City	State	Country	Zip Code
FLORENCE	OREGON	UNITED STATES	97439

Property Legal Description

Township: 21 Range: 03 Section: 34
 Subdivision Type: Subdivision Name:
 Lot/Tract/Unit Number: TL 00203
 Subdivision Number:
 Recording Number:

Quarter: 00
 Division/Phase:

Property Value and Taxes

	Land Value	Improvement Value	Total Value	
	Real Market	Real Market	Real Market	Assessed
2004	162,435	53,860	216,295	120,358
2003	150,505	48,960	199,465	112,321
2002	164,269	55,130	219,399	109,074
2001	153,258	44,460	197,718	105,915
2000	148,669	51,100	199,769	102,838
1999	110,130	53,790	163,920	89,851
1998	91,770	57,220	148,990	87,726
1997	91,770	60,870	152,640	85,171
1996	86,580	57,420	144,000	100,190
1995	77,300	56,290	133,590	94,630

120,358
 Taxable Value

0
 Exemption Amount Regular (EAR)

0
 Frozen Assessed Value (FZNPU)

Tax Year

Tax (See Explanation of Tax)

2004	1,160.23
2003	1,077.88
2002	1,086.17
2001	1,058.01
2000	999.79
1999	777.72
1998	709.51
1997	696.97
1996	733.51
1995	685.42

Explanation of Tax

The tax shown is the amount certified in October, unless a value change has been processed on the property. Value changes typically occur as a result of appeals, clerical errors and omitted property. The owner either initiates the change, as in the case of appeals, or is notified by the department, in the case of clerical errors and omitted property. The amount shown is the full amount of tax for the year indicated and does not include any discounts offered, payments made, interest owing, or previous years owing.

Account Status

- Active for the 2004 Tax Year
- New Account Scheduled to be Active for the 2005 Tax Year
- Locally Assessed
- Pending Seg/Merge
- Pending Value Change
- Delinquency
- Delayed Foreclosure
- Bankruptcy
- Code Split Indicator

Remarks:

Potential Additional Tax

Special Assessment Program (if applicable)

Code:
FORDF

Description:
FOREST DEFERRAL

General Information

Property Class: 641
 Statistical Class: 130
 Neighborhood Code: 50763
 Property Use Type: 515
 Account Type: RP
 Category: LAND AND IMPROVEMENTS
 Mortgage Company Name:
 Total Acreage for this Account: 42.70
 Fire Acres: 42.7

**FOREST, UNZONED FARM LAND, IMPROVED
 CLASS 3 SINGLE FAMILY HOME**

2004 Tax Code Area (Levy Code): 04508 Lane County Assessment and Taxation 2004-2005 Measure 50 Billing Rates
**EMERALD PEOPLES UTILITY DISTRICT
 LANE COMMUNITY COLLEGE
 LANE COUNTY
 LANE EDUCATION SERVICE DISTRICT
 SOUTH LANE SCHOOL DISTRICT 45J**

Sales Information

Sales Date: Sales Price: Grantor: Grantee: Instrument #: Analysis Code: Mult Acct?:

Manufactured Structures

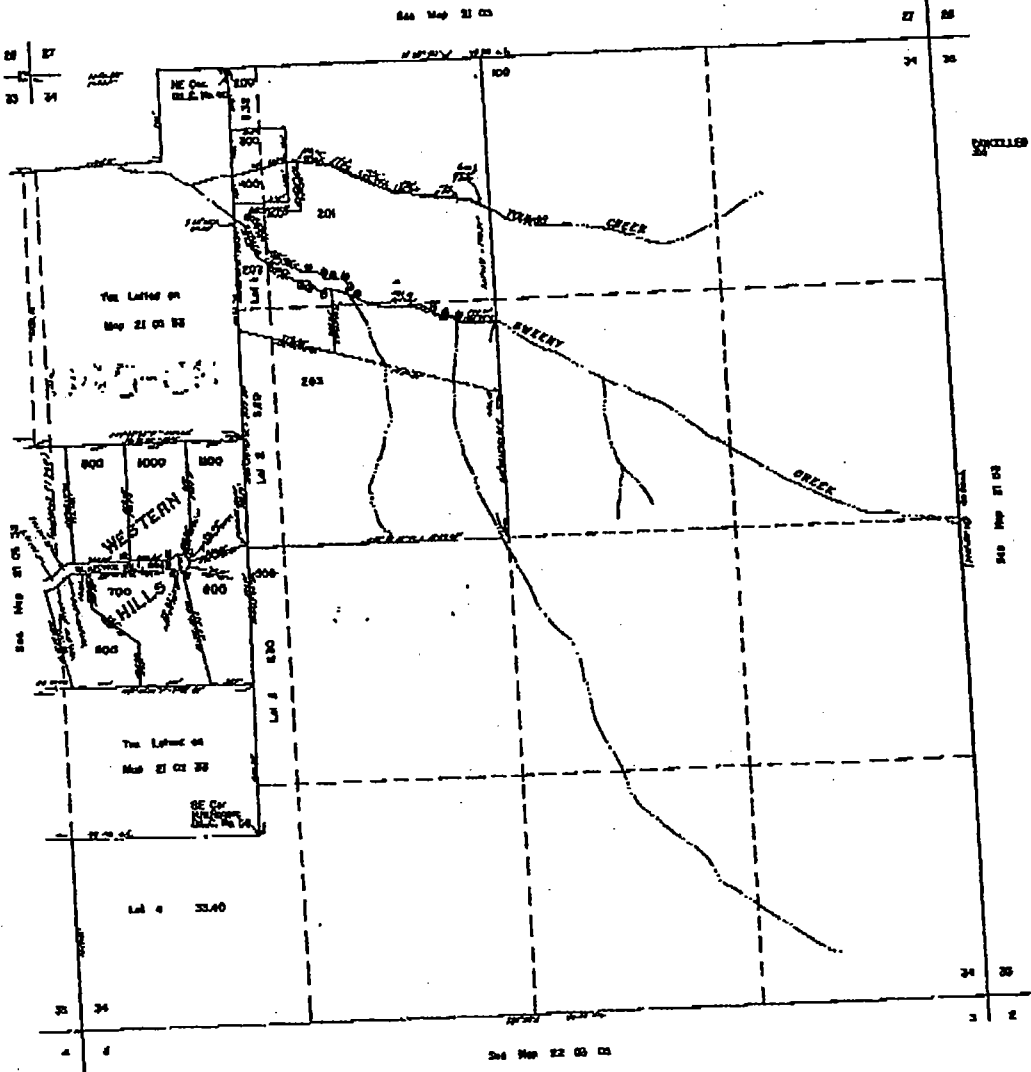
Building 1 Characteristics

Account: 1184926	Map & Tax Lot: 21-03-34-00-00203	
Inspection Date: 10-22-2003	Roofstyle: GABLE	Bedrooms:
Building Type: 31 STAT 130	Roof Cover: COMP SHINGLE MEDIUM	Full Baths:
Class: 3	Heating:	Half Baths:
Year Built: 1987	Exterior Wall: T 111 PLYWOOD	Fireplaces: NO
Effect Year Built: 1987	Depreciation: 14	Percent Improv. Complete: 42
Floor	Base Area	Finished Area
Basement:		Bsmt Gar sqft:
First:	624	624 Att Gar sqft:
Second:	360	360 Att Port sqft:
Attic:		Det Gar sqft:
		Driveway Sqft:
TOTAL	984	984 Paved Patio Sqft:

Search Results | New Property Search | Applications Menu

Section 34 T21S. R3WWM
LANE COUNTY
1"=400'

1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	32
33	34	35	36
37	38	39	40
41	42	43	44
45	46	47	48
49	50	51	52
53	54	55	56
57	58	59	60
61	62	63	64
65	66	67	68
69	70	71	72
73	74	75	76
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81	82	83	84
85	86	87	88
89	90	91	92
93	94	95	96
97	98	99	100

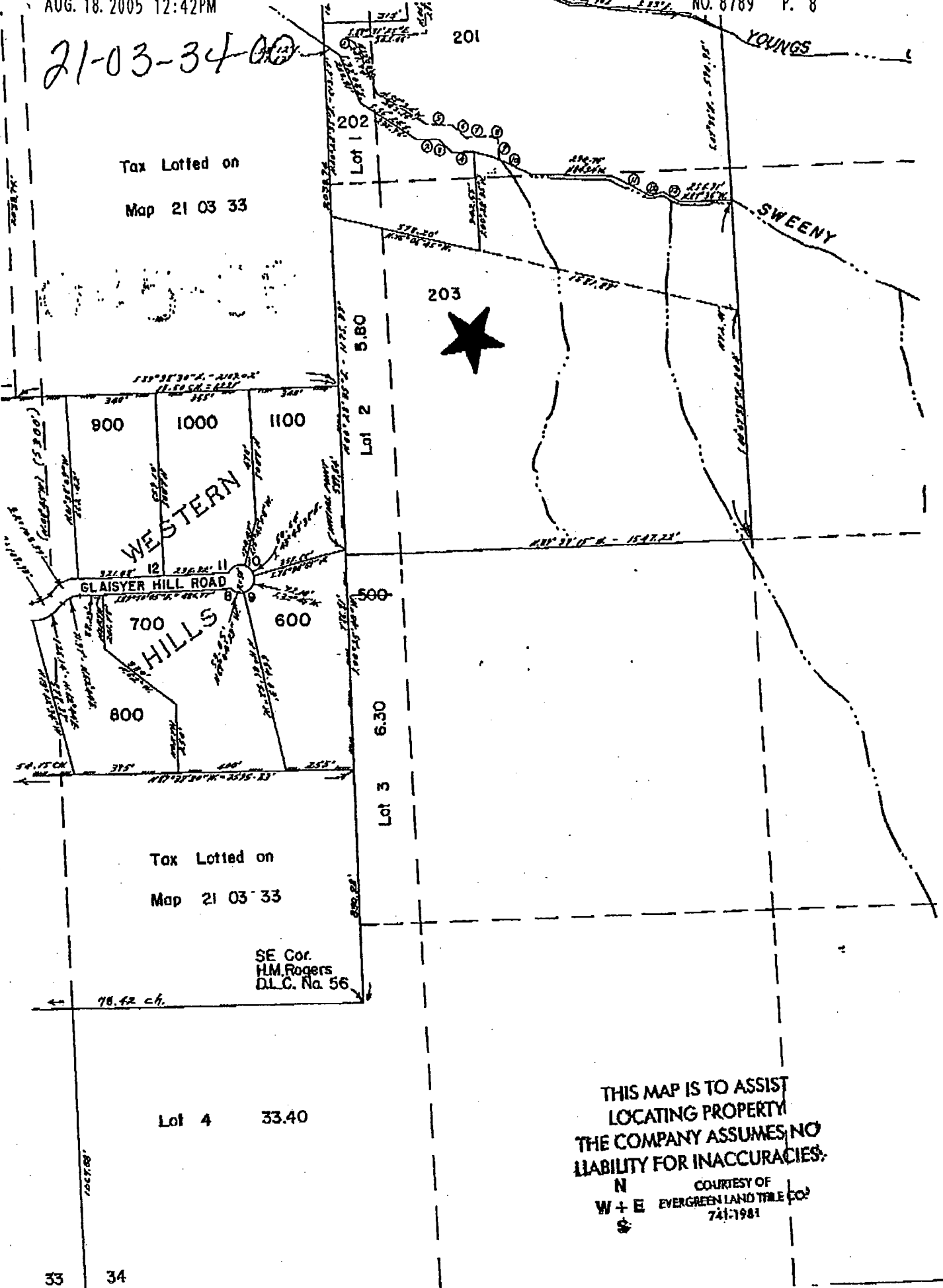


**THIS MAP IS TO ASSIST
LOCATING PROPERTY
THE COMPANY ASSUMES NO
LIABILITY FOR INACCURACIES.**

N COURTESY OF
W + E EVERGREEN LAND TITLE CO.
S 742-3887

21-03-34

Tax Lotted on
Map 21 03 33



Tax Lotted on
Map 21 03 33

SE Cor.
H.M. Rogers
D.L.C. No. 56

78.42 ch.

Lot 4 33.40

THIS MAP IS TO ASSIST
LOCATING PROPERTY
THE COMPANY ASSUMES NO
LIABILITY FOR INACCURACIES;

N
W + E COURTESY OF
EVERGREEN LAND TITLE CO.
741-1981

7760336
WARRANTY DEED - STATUTORY FORM

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conveys and warrants to WALTER M. DAVIES AND MARIE E. DAVIES, husband and wife

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Dated September 16, 1977

Laurence E. Thorp

STATE OF OREGON, County of Lane, ss. Personally appeared the above named

Laurence E. Thorp and acknowledged the foregoing instrument to be his voluntary act and deed. Before me

DATED September 16 A.D. 19 77

My Commission Expires 9/3/81

Notary Public for Oregon

After recording return to
SAFECO TITLE INSURANCE CO

P O Box 606

Cottage Grove, Oregon

NAME, ADDRESS, ZIP

Until a change is requested, mail all tax statements to

WALTER M. DAVIES & MARIE E. DAVIES

NAME, ADDRESS, ZIP

7760336

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7760336

EXHIBIT "A"

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

977 557 22 PM 11 08

Reel 865 R
Lane County OFFICIAL RECORDS.

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

By SP. [Signature]
C.D.

RECEIVED JAN 05 7 00 AM

BROMLEY NEWTON LLP
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

WILLIAM W. BROMLEY, P.C.

RUCE W. NEWTON, P.C.

JUDSON M. CARUSONE

ALSO LICENSED TO PRACTICE IN IDAHO

DANIEL J. STOTTER, P.C.

OF COUNSEL:

JOHN L. HENDERSON, P.C.

ATTORNEYS AT LAW
627 COUNTRY CLUB ROAD, SUITE 200
EUGENE, OR 97401

PHONE: (541) 343-4700

FAX: (541) 343-4713

January 4, 2006

William A. VanVactor
Lane County Administrator
125 E 8th Avenue
Eugene, OR 97401

Re: Measure 37 Claim of Walter & Marie Davies (Claim No. M37 PA 05-6207)

Dear Mr. VanVactor:

I am writing on behalf of our firm's clients, Walter & Marie Davies, in response to your correspondence of December 21, 2005 to our office. There are several material errors in your correspondence to our office regarding our clients' August 18, 2005 Measure 37 Claim, and I am assuming that these errors were perhaps the result of your using some type of "form letter" that included generic information sent to other parties who had all filed Measure 37 claims, and consequently, that the erroneous information in your letter was merely a result of sending out generic "form responses" intended to apply to other parties with similar Measure 37 issues. However, to ensure that there are no future misunderstandings, I will briefly address these issues.

To borrow a phrase from your letter of December 21, 2005 sent to our office, while it may require a certain level of preparation for your staff to address the specific Measure 37 claim information submitted by members of the public, and to prepare individual response letters that do not contain such generic and erroneous information, it would perhaps be helpful for Lane County to try to meet this level of preparation, as it will be necessary to address the actual and specific claims presented in ultimately processing these claims, and this is the same information that the Lane County Circuit Court will evaluate for its judicial review of our clients' Measure 37 claim if Lane County continues to fail to meet the applicable deadlines expressly mandated by state law.

Contrary to the assertions in your correspondence, the Measure 37 claim which was filed by our clients contains detailed property valuation information concerning the subject property for this claim. While it is understandable that Lane County may prefer to impose its own additional requirements for Measure 37 claims, above and beyond those actually required by this state law, I assume that your legal counsel has explained to Lane County's staff that this state law expressly provides that any additional local government procedures for filing Measure 37 claims are not required or otherwise binding as a matter of law. In any event, our clients' detailed information as to the economic valuation of the claims presented are certainly sufficient for Lane County to process this claim, and it is our position that our Measure 37 Claim is legally sufficient for any subsequent court review of this claim in the event that this matter is reviewed by the Lane County Circuit Court.

Re: Measure 37 Claim of Walter & Marie Davies (Claim No. M37 PA 05-6207)

Page 2

In addition, contrary to your assertions in the December 21, 2005 letter to our office, our clients' Measure 37 claim expressly addressed the issues of any leases, covenants, conditions or restrictions which may affect the subject property. All such restrictions for the subject property were listed on the detailed property title report which was submitted along with our clients' August 18, 2005 Measure 37 Claim, and there are no additional restrictions known to our clients as to the subject property.

I would also observe that the Lane County application fee of \$850 for filing Measure 37 claims are not required by state law for submitting Measure 37 claims to local governments. However, I have discussed this matter with my clients, and they have agreed that if the Oregon Supreme Court does determine that Measure 37 is constitutional, our clients agree to submit the full application fee of \$850 at that time.

Notwithstanding all of the above described issues, in the interest of avoiding unnecessary costs to either Lane County or to our clients, I have been authorized by the Davies to sign and submit herewith the enclosed "Agreement To Suspend Time Lines In Measure 37 Claim" prepared by your office, with the express caveat and understanding that our clients hereby reserve the right to have Lane County resume processing this claim in the event that written notice is provided by our office, or upon the Oregon Supreme Court reversing the trial court's decision in *MacPherson v. Dept. of Admin Services et. al.*, (Marion County Case No. 00C15769).

Please feel free to call me at (541) 343-4700 if you have any questions or concerns on this, or if I can be of any other assistance in this matter.

Thanks in advance for your assistance.

Very truly yours,

BROMLEY NEWTON LLP


Daniel J. Stotter,

enc.

cc: Clients