

Memorandum Date: November 17, 2006  
Order Date: November 28, 2006

T. I.  
and  
W. I. S. C.



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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works Dept./Land Management Division

**PRESENTED BY:** BILL VANVACTOR, COUNTY ADMINISTRATOR  
KENT HOWE, PLANNING DIRECTOR

**AGENDA ITEM TITLE:** 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 (PA06-6144, WILDISH)

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**I. MOTION**

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

**II. AGENDA ITEM SUMMARY**

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 the Wildish Land Co. to use the property as allowed at the time it acquired an interest in the property?

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

**Applicant:** Wildish Land Co.

**Current Owner:** Wildish Land Co.

**Agent:** Steve Cornacchia

**Map and Tax lots:** refer to Table 1.

**Acreage:** approximately 1,368 acres

**Current Zoning:** F1 (Non-Impacted Forest), F2 (Impacted Forest), E25 (Exclusive Farm Use), E30 (Exclusive Farm Use) and SG (Sand, Gravel and Rock Products) zones.

**Date Property Acquired:** refer to Table 1.

**Date claim submitted:** June 28, 2006. The 180-day processing deadline is December 25, 2006.

**Land Use Regulations in Effect at Date of Acquisition:** AGT (Agriculture, Grazing, Timber Raising).

**County land use regulation which restricts the use and reduces the fair market value of claimant's property:** minimum lot size and restrictions on new dwellings on the following zones:

LC 16.210 F1 (Non-Impacted Forest)

LC 16.211 F2 (Impacted Forest)

LC 16.212 EFU (Exclusive Farm Use)

LC 16.217 SG (Sand, Gravel and Rock Products).

**B. Policy Issues**

The applicant alleges a reduction in fair market value of \$15,400,000 from enforcement of restrictive land use regulations. The applicant has submitted an appraisal as evidence to support this claim.

**C. Board Goals**

The public hearing will provide an opportunity for citizen participation in decision making, in conformance with the overall goals of the Lane County Strategic Plan.

**D. Financial and/or Resource Considerations**

The applicant has requested compensation in the amount of \$15,400,000 or a waiver of the F1 (Non-Impacted Forest), F2 (Impacted Forest), EFU (Exclusive Farm Use) and SG (Sand, Gravel and Rock Products) zone regulations (LC 16.210, LC 16.211, LC 16.212 and LC 16.217, respectively) that prohibit the division of the property into lots ranging in size from one to four acres and construction of a dwelling on each lot.

**E. Analysis**

The applicant and current owner is the Wildish Land Co. They have submitted information in support of this claim including an appraisal, deeds and the processing fee. The property contains approximately 1,368 acres and is zoned F1 (Non-Impacted Forest), F2 (Impacted Forest), E25 (Exclusive Farm Use), E30 (Exclusive Farm Use) and SG (Sand, Gravel and Rock Products). The applicant wishes to subdivide the property into lots that range from one to four acres and

place a dwelling on each lot. This is not allowed by the minimum lot size and dwelling restrictions of the applicable zones. Because of these restrictions, the applicant alleges a reduction in fair market value of \$15,400,000. The applicant has submitted an appraisal as evidence of the alleged reduction in fair market value. The appraisal makes the following assumptions:

- Due to physical constraints of the land, there are approximately 692 acres that can be developed with 300 homes on lots ranging in size from one to four acres.
- Development will comply with the current floodplain regulations.
- The hard costs and soft costs of development (construction costs, insurance, marketing, etc.) are deducted from the final value.
- The minimum lot size and restrictions on new dwellings of the SG, F1, F2 and EFU zones are the restrictive regulations that reduce the fair market value of the property.
- The costs of reclamation are not significant and will not lower the fair market value of the site for development.

The property was unzoned until August 26, 1966. On that date, it was zoned AGT (Agriculture, Grazing, Timber Raising). As shown in Table 1, the property was acquired after that date. In 1966, the AGT zone did not have a minimum lot size requirement. Instead, the applicable subdivision ordinance regulated the minimum lot size of the AGT zone. It allowed lots as small as 6,000 square feet if the lots were served by public water and sewer, but required one acre lots if not served by public water and sewer. The AGT zone also allowed limited commercial development, which the applicant has indicated could be included in the development of the site. No specific commercial uses have been proposed.

The current owner, Wildish Land Co., acquired the property from TC Wildish Co. between 1966 and 1971. Table 1 shows the specific dates that the Wildish Land Co. acquired each parcel and the deed that conveyed each parcel. There are four parcels that were acquired through a stock subscription but not conveyed by deed. Those parcels are 18-03-11 #500, 18-03-12 #400, 18-03-12 #900, 18-03-12 #1000 and total approximately 220 acres. The beneficial interest in these parcels, not the legal interest, was transferred by the stock subscription agreement and call of the Wildish Land Company Board of Directors on December 31, 1966. Since that time, the Wildish Land Co. has exercised all the tenants of land ownership. Specifically, the Wildish Land Co. has paid the taxes, controlled, managed and used those parcels as its own since December 31, 1966. Copies of the property tax payments were submitted with the claim as evidence in support of this claim. Refer to page six of the applicant's cover letter for more details.

The county tax records show the Wildish Land Co. as the current owner of all the subject property, including the four undeeded parcels. Because the Board has not seen this type of conveyance related to a Measure 37 claim, the Board must determine if this stock subscription agreement conveyed an ownership interest in

these parcels to the Wildish Land Co. The stock subscription agreement appears to act as a land sale contract and the minutes of the Board of Director's December 31, 1966, meeting reflect the property was subject to call of the Board, which occurred on the same date. Since that is the case, the stock subscription agreement would appear to have conveyed an ownership interest in the property to the Wildish Land Co.

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 Wildish Land Company acquired an interest in the property on various dates as outlined in Table 1. The property was unzoned until August 26, 1966. On that date, it was zoned AGT (Agriculture, Grazing, Timber Raising). The majority of the property was acquired after that date. In 1966, the AGT zone did not have a minimum lot size requirement. Instead, the applicable subdivision ordinance regulated the minimum lot size of the AGT zone. It allowed lots as small as 6,000 square feet if the lots were served by public water and sewer, but required one acre lots if not served by public water and sewer.

Currently, the property is zoned F1 (Non-Impacted Forest), F2 (Impacted Forest), E25 (Exclusive Farm Use), E30 (Exclusive Farm Use) and SG (Sand, Gravel and Rock Products). The minimum lot size and dwelling restrictions of these zones prevent the current owner from developing the property as could have been allowed when it acquired an interest in the property on various dates between 1966 and 1971.

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

The applicant alleges a reduction of \$15.4 million if the property can not be subdivided into 300 lots and each lot developed with a dwelling. To support this allegation, the applicant has submitted an appraisal. It appears this is a valid claim if the Board determines the submitted evidence demonstrates:

- A reduction in fair market value resulting from enforcement of a restrictive land use regulation, and
- The Wildish Land Co. has maintained an ownership interest in tax parcels 500, 400, 900 and 1000 since December 31, 1966, by virtue of the stock subscription agreement.

### **Exempt Regulations**

The minimum lot sizes and limitations on new dwellings of the F1 (Non-Impacted

Forest), F2 (Impacted Forest), E25 (Exclusive Farm Use), E30 (Exclusive Farm Use) and SG (Sand, Gravel and Rock Products) zones do not appear to be exempt regulations described in Measure 37 or LC 2.710.

Portions of the property are within the floodplain, as identified on the adopted Flood Insurance Rate Maps. The floodplain regulations are exempt from a Measure 37 claim because they restrict or prohibit activities for the protection of public health and safety.

### Conclusion

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

**Table 1**

Map	Lot	acres	current zone	Acquired by Wildish Land Co.	conveyance or deed	original zone
180207	100	136.5	F1, F2	31-Dec-66	620-R/73-1468	AGT
180207	200	13.9	E30	31-Dec-66	620-R/73-1468	AGT
180207	1000	9.7	E30	24-Nov-71	560R/ 75306	AGT
180208	601	61.9	SG	31-Dec-66	620-R/73-1468	AGT
180208	700	296.2	F1	31-Dec-66	620-R/73-1468	AGT
180208	801	225.0	E25, SG	31-Dec-66	620-R/73-1468	AGT
180208	900	0.5	SG	31-Dec-66	620-R/73-1468	AGT
180209	400	39.8	SG	14-Nov-68	415R/ 45172	AGT
180209	900	26.6	SG	14-Nov-68	415R/ 45172	AGT
180209	1401	21.7	SG	29-Jul-67	359R/ 95624	AGT
180209	1404	114.1	E25, SG	18-Jun-69	442R/ 70159	AGT
180210	502	15.6	E25	14-Nov-68	415R/ 45172	AGT
180210	503	0.6	E25	14-Nov-68	415R/ 45172	AGT
180216	101	20.4	SG	18-Jun-69	442R/ 70159	AGT
180301	3500	4.6	SG	31-Dec-66	620-R/73-1468	AGT
180311	500	66.1	SG	31-Dec-66	stock subscription	AGT
180312	300	158.9	SG	31-Dec-66	620-R/73-1468	AGT
180312	400	57.8	SG	31-Dec-66	stock subscription	AGT
180312	900	84.3	E25, SG	31-Dec-66	stock subscription	AGT
180312	1000	14.2	E25	31-Dec-66	stock subscription	AGT

**total acres                    1368.5**

**F. Alternatives/Options**

The Board has these options:

- Determine the application appears valid and adopt the order attached to this report.
- Require more information regarding the reduction in value or ownership.
- 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. TIMING/IMPLEMENTATION**

If the Board determines this is a valid claim and waives a land use regulation, the claimant must receive a similar waiver from the state before a land use application and/or development proposal is submitted.

**VI. RECOMMENDATION**

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

**VII. FOLLOW-UP**

If an order is adopted, it will be recorded.

**VII. ATTACHMENTS**

This cover memo prepared for the Board hearing does not contain the entire submittal. The entire submittal is contained in a notebook labeled "PA06-6144 /Wildish Claim", available in the County Commissioners Office. The portions of the submittal included with this memo are identified below:

- Draft order to approve the claim of the Wildish Land Co.
- Vicinity Map.
- Application form.
- Cover letter.
- Appraisal
- AGT zone (1966), Ordinance No. 217, Section VI.
- Lane County Subdivision Ordinance (1962), Section V. (D.)(1)(a.)(3)

**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 (PA06-6144/Wildish)

**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 landowner 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 the Wildish Land Co. (PA06-6144), the owner of real property described in Table 1 in the staff report and attached as Exhibit "A", consisting of approximately 1,368 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 November 28 and November 29, 2006, the Board conducted public hearings on the Measure 37 claim (PA06-6144) of the Wildish Land Co. and has now determined that the minimum lot size and dwelling restrictions of the currently applicable zones were enforced and made applicable to prevent the Wildish Land Co. from developing the property as might have been allowed at the time it acquired an interest in the property on the various dates listed in Table 1 attached as Exhibit "A", and that the public benefit from application of the current minimum lot size and dwelling regulations to the applicant's property is outweighed by the public burden of paying just compensation; and

**WHEREAS**, the Wildish Land Co. requests either \$15,400,000 as compensation for the reduction in value of it's property, or waiver of all land use regulations that would restrict the division of it's land into lots containing less than the minimum lot size currently required in the zones applicable to the property and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time it acquired an interest in the property; and

**WHEREAS**, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the F1, F2, E25, E30 and SG zones 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 the Wildish Land Co. 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 an interest in the property; and

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

**NOW, THEREFORE IT IS HEREBY ORDERED** that the Wildish Land Co. 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 an interest in 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 the Wildish Land Co. shall be granted and the restrictive provisions of LC 16.210, LC 16.211, LC 16.212 and LC 16.217 that limit the development of dwellings and the division of land in the applicable zones shall not apply to the Wildish Land Co., so it can make application for approval to develop the property identified in Table 1 attached as Exhibit "A", consisting of approximately 1,368 acres in Lane County, Oregon, in a manner consistent with the land use regulations in effect when it acquired an interest in the property on various dates identified in Table 1 and attached as Exhibit "A".

**IT IS HEREBY FURTHER ORDERED** that the Wildish Land Co. still needs 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 it 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 zones described above and identified in Table 1 and attached as Exhibit "A", the claimant shall submit appropriate applications for review and approval of a land division or new dwelling to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37, and return to the Board for action, if necessary. 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 the Wildish Land Co. 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 applicant 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 applicant 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.

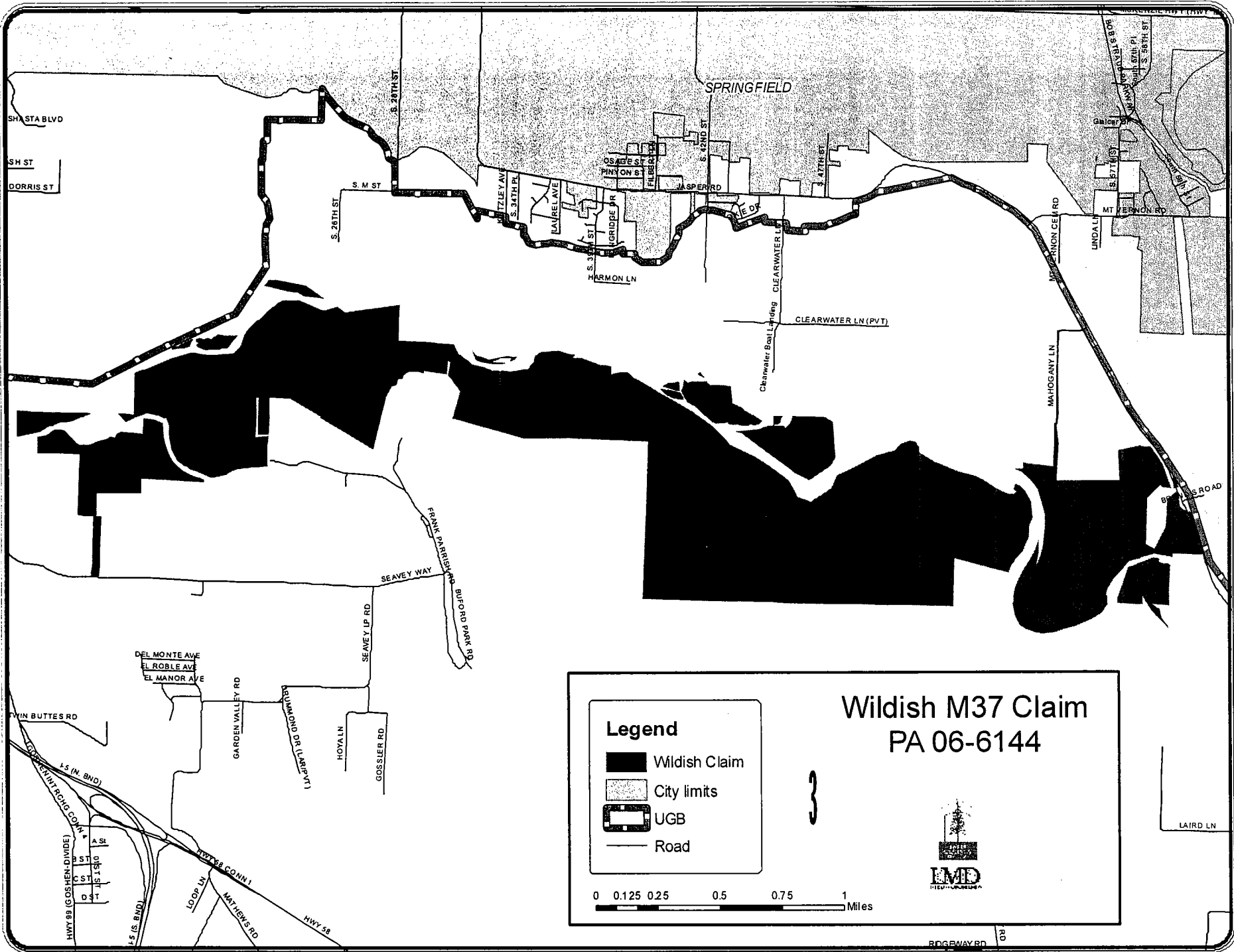
**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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

APPROVED AS TO FORM

Date 11-20-2006 Lane County

\_\_\_\_\_  
*Stephen J. Walker*  
OFFICE OF LEGAL COUNSEL



**Wildish M37 Claim**  
**PA 06-6144**

**Legend**

- Wildish Claim
- City limits
- UGB
- Road

0 0.125 0.25 0.5 0.75 1 Miles

**LMD**  
Landscape Management Design



LAND MANAGEMENT DIVISION

Measure 37 Claim Form

125 E 8<sup>th</sup> AVENUE, EUGENE OR 97401

PLANNING: 682-3807

For Office Use Only, FILE # 066144 CODE: PLN-M37 FEE: \$850

This completed form, supporting documentation and processing fee must be submitted to the Lane County Land Management Division for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 4, 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.

LOCATION

Multiple Parcels - See Attachment 1 to this Exhibit C

Township	Range	Section	qtr section	Taxlot
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None

Site address

Applicant (print name): Wildish Land Co.

Mailing address: P.O. Box 7428, Eugene, OR 97401

Phone: (541) 485-1700 Email: \_\_\_\_\_

Applicant Signature: *Steven A. Wildish*

Agent (print name): Hershner Hunter, LLP By: Steve Cornacchia

Mailing address: 180 E. 11th Avenue, Eugene, OR 97401

Phone: (541) 686-8511 Email: scornacchia@hershnerhunter.com

Agent Signature: *Steve Cornacchia*

Land Owner (print name): Same as applicant.

Mailing address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Land Owner Signature: *Steven A. Wildish*

By signing this application, the applicant, agent and landowner(s) certify the following: 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 owners(s) agree to this claim as evidenced by the signature of those owners. (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 4, 2004).

Additional land owners, lien holders, trustees, lessees or anyone with an interest in the subject property. Describe the ownership interest. Attach more pages if necessary.

None

Name	Signature	Address

Submit the following documents:

- Title Report. This report must identify the current land owner(s) and the date the current land owner(s) acquired the property or an interest in the property.
- Description Card and deeds. The description card is available in the Tax Assessor's Department. Submit all the deeds listed on the card from the date the current owner acquired an interest in the property. The deeds must verify the current land owner, as listed on the Title Report, and demonstrate continuous ownership by that owner since the date of acquisition.
- If the property is in a Trust, LLC or other type of ownership, submit documentation regarding the ownership. These document must show whether the Trust, LLC or other type of ownership is revocable and identify all persons with an interest in the ownership.
- If the property was acquired through a land sale contract, identify the original land owner and each person who assumed the contract prior to the current land owner. Include the documentation that demonstrates when the contract was conveyed. Also, submit the document(s) demonstrating the contract was completed and ownership was conveyed to the current owner.
- Leases, covenants, conditions or restrictions applicable to the subject property.
- Reasonable and competent evidence of a reduction in fair market value from a land use regulation.

Current Zoning: See attached narrative.

Acreage: See attached narrative.

When did the current land owner acquire an interest in the property? See attached narrative.

When did the family acquire an interest in the property? See attached narrative.

Current fair market value of property: \$5,600,000

Alleged reduction in fair market value: \$15,400,000

**EXISTING IMPROVEMENTS** Identify any existing improvements to the property such as any homes, roads, other structures, etc.

None

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What relief is being sought? Are you requesting monetary compensation or a waiver of a land use regulation(s)? If a waiver is desired, what is the desired use and/or how do you want to develop the property?

Monetary Claim: \$15,400,000

Waiver: All regulations preventing residential or commercial use of the subject property on parcels less than 25, 30 or 80 acres in size.

**APPROVAL CRITERIA**

Lane Code 2.740(1)

The County Administrator shall make a determination as to whether the application qualifies for Board compensation consideration. An application qualifies for compensation consideration if the applicant has shown that all of the following criteria are met:

- (a) The County has either adopted or enforced a land use regulation that restricts the use of private real property or any interest therein;
- (b) The restriction on use has the effect of reducing the fair market value of the property or any interest therein, upon which the restriction is imposed;
- (c) The challenged land use regulation was adopted, enforced or applied after the current owner of the property (the applicant) became the owner; and
- (d) The challenged regulation is not an exempt regulation as defined in LC 2.710.

Answer the following questions. Attach additional pages if necessary.

- What land use regulation(s) has been enacted since the current owner acquired the property that reduced the fair market value of the property?
- How has the identified regulation(s) reduced the fair market value of the property?
- What evidence are you providing that demonstrates the value reduction? Explain the evidence.

See attached narrative and exhibits thereto.

## BALLOT MEASURE 37 CLAIM

### INTRODUCTION.

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

In lieu of such payment of just compensation, the applicant requests that Lane County waive the offending regulations, as provided hereinbelow, that prevent it from subdividing the subject property to buildable lots of less than 25, 30 or 80 acres in size (see discussion below) and from establishing residential or commercial uses on the subject property.

The applicant obtained an interest in the subject property on the following dates and has owned an interest in the subject property continuously since that time.

#### December 31, 1966:

180207 TL 100  
180207 TL 200  
180312 TL 300  
180208 TL 601  
180208 TL 700  
180208 TL 900  
180208 TL 801

180311 TL 3500  
180311 TL 500  
180312 TL 900  
180312 TL 1000  
180312 TL 400

#### July 29, 1967:

180209 TL 1401

#### November 14, 1968:

180209 TL 400  
180209 TL 900  
180210 TL 502  
180210 TL 503

#### June 18, 1969:

180209 TL 1404  
180216 TL 100

November 24, 1971:

180207 TL 1000

Lane County adopted a zoning ordinance on May 31, 1949. On July 27, 1966, Lane County enacted Ordinance No. 223 which zoned the following parcels of the subject property Agriculture, Grazing, Timber Raising District (AGT):

18-02-07 Tax Lots 100, 200 and 1000;  
18-02-08 Tax Lot 700 and the portion of Tax Lot 801 located in the boundaries of Section 8;  
18-03-11 Tax Lot 500; and  
18-03-12 Tax Lots 300, 400, 900 and 1000

The following parcels of the subject property were not zoned by Lane County at the time the applicant obtained its interest therein:

18-02-08 Tax Lot 601  
18-02-08 Tax Lot 900  
18-02-09 Tax Lot 900  
18-02-09 Tax Lot 1401 and the portion of Tax Lot 801 located in the boundaries of Section 9;  
18-02-09 Tax Lots 400 and 1404  
18-02-09 Tax Lots 502 and 503  
18-03-01 Tax Lot 3500

The property consists of twenty parcels, zoned as follows:

180207 TL 100	F1
180207 TL 200	E30
180312 TL 300	SG
180208 TL 601	SG
180208 TL 700	F1
180208 TL 900	SG
180208 TL 801	SG
180311 TL 3500	SG
180311 TL 500	SG
180312 TL 900	SG/E25
180312 TL 1000	SG/E25
180312 TL 400	SG
180209 TL 1401	SG
180209 TL 400	SG

180209 TL 900	SG
180210 TL 502	None/F-F20
180210 TL 503	E25
180209 TL 1404	E25/SG
180216 TL 101	SG
180207 TL 1000	E30

That zoning, as applied by LC 16.210, LC 16.211, LC 16.212 and LC 16.217 will generally not permit land divisions below 25 and 30 acres in size (E25 & E30) and 80 acres in size (F1 and F2) for the resulting parcels on the subject property and, except in limited circumstances, will not permit residential or commercial uses on the subject property.

**1. BACKGROUND INFORMATION.**

**1.1 General Site Description.**

The property subject to this application consists of twenty parcels, approximately 1400 acres in size, located south of the City of Springfield, adjacent to Buford Park and Mr. Pisgah and parallel to an approximate five-mile stretch of the Middle and Coast Forks of the Willamette River.

The subject property is described by tax lot hereinabove in this Introduction.

The subject property is undeveloped and vacant.

The subject property receives the following public services: Pleasant Hill School District No. 1(schools); Emerald Peoples Utility District (electrical power); Springfield Dept. of Fire and Life Safety (fire); Qwest (telephone); LTD (bus service); Lane County Sheriff’s Department and Oregon State Police.

**1.2 List of Exhibits:**

- Exhibit A – Assessor’s Maps
- Exhibit B – Legal Descriptions
- Exhibit C – Lane County Application Form
- Exhibit D – Deeds of Conveyance to Wildish Land Co.
- Exhibit E – Certificate of Incorporation of Wildish Land Co.
- Exhibit F – Wildish Land Co. Stock Subscription Agreement
- Exhibit G – Silva Memorandum of Contract
- Exhibit H – Property Tax Payment Records
- Exhibit I – Silva, Wingard, Flynn and Shelly Deeds
- Exhibit J – Ordinance #4
- Exhibit K – Lane County Ordinance No. 223
- Exhibit L – Ordinance No. 26



Exhibit M – Ordinance No. 45  
Exhibit N – Ordinance #3  
Exhibit O – Lane County Revised Subdivision Ordinance  
Exhibit P – Ordinance No. 886  
Exhibit Q – Ordinance No. 891  
Exhibit R – Ordinance No. 884  
Exhibit S – Lane County Official Zoning Map Plots  
Exhibit T – Ordinance PA 1197  
Exhibit U – Lane County Ordinance No. 5-04  
Exhibit V – Lane County Ordinance No. 10-04  
Exhibit W – Charles P. Thompson & Assoc. Appraisals

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

**2.1 Lane Code 2.720 Application for Claim**

Lane Code 2.720 (and the definition of “Owner” in LC 2.710) requires that the applicant be the present owner of the property, or any interest therein, that is the subject of the claim at the time the claim is submitted. The applicant is the present owner of the subject property as that term is defined by LC 2.710.

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

**a. A completed application form;**

**Response:**

A completed Lane County application form is attached hereto as Exhibit C.

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

**Response:**

The applicant is the owner of the subject property, as the term is defined by LC 2.710, free and clear of all encumbrances. The name, mailing address, and phone number of the applicant is: Wildish Land Co., an Oregon corporation, P.O. Box 7428, Eugene, OR, 97401, (541) 485-1700. The applicant’s name, mailing address and phone number are also provided in the Lane County application form attached hereto. The applicant has signed the application form attached hereto as Exhibit C.

The applicant is the owner of the subject property. The applicant obtained its interest in the subject property on the date provided hereinabove in the Introduction. The applicant obtained its interest in the subject property as follows:

Conveyance of fee ownership by deed:

December 31, 1966: (Bargain and Sale Deed, T.C. Wildish Co., a co-partnership composed of L.A. Wildish and the Trust of Thomas C. Wildish, Verna E. Wildish, Richard E. Wildish and James A Wildish, Co-trustees, Grantor):

180207 TL 100  
180207 TL 200  
180312 TL 300  
180208 TL 700  
180208 TL 900  
180208 TL 801

July 29, 1967: (Bargain and Sale Deed, Don Hendricks and Billie E. Hendricks, Grantors)

180209 TL 1401

November 14, 1968: (Warranty Deed, John P. Allum, Wilma M. Allum and Allum Bros., a partnership, Grantors)

180209 TL 400  
180209 TL 900  
180210 TL 502  
180210 TL 503

June 18, 1969: (Deed, Russell Dana Hendricks, conservator of Don O. Hendricks, Grantor, and Billie E. Hendricks, Grantor)

180209 TL 1404  
180216 TL 100

November 24, 1971: (Warranty Deed, Hazel H. Kienzle, Kenneth I Kienzle, Holly S. Parker, Alvan P. Parker, Elizabeth A. Hambleton and Willard P. Hambleton, Grantors)

180207 TL 1000

Copies of the aforementioned deeds are attached as Exhibit D. Included at the end of the collection of the aforementioned deeds are reciprocal Quitclaim Deeds by the State of Oregon and the applicant, executed on June 17, 1976 and June 21, 1976, for the purposes of conveying to each party respective land under conflicting claims due to the movement of the Willamette River. Included in that deed is a conveyance of land now designated as 18-02-08 Tax Lot 601. That land was accreted to the upland land now designated as 18-02-08 Tax Lot 900 over years by movement of the Willamette River. The accretion occurred over a period of years prior to the applicant obtaining its interest in Tax Lot 900. The accretion had occurred and the land was

included in the applicant's ownership of Tax Lot 900 at the time applicant obtained that ownership. The quitclaim deeds clarified and adjusted the ownership of lands involving the high water mark of the Willamette River and involve land along the river accreted to each parcel and that land now designated as 18-02-08 Tax Lot 601.

The applicant's interest in the following parcels was obtained by the applicant during its formation in 1966. Following its incorporation in the state of Oregon on May 3, 1966 (a copy of its certificate is attached as Exhibit E), the applicant obtained the following described parcels of the subject property from owners of its predecessor, T.C. Wildish Co., an Oregon partnership, on December 31, 1966, (the same date of the T.C. Wildish Co. conveyance to Wildish Land Co. by Bargain and Sale Deed listed hereinabove). On that date the applicant obtained interests in the above-described conveyed property and the following described property by conveyances by T.C. Wildish Co. and by stock subscriptions of the owners of T.C. Wildish Co. (Thomas C. Wildish Trust B and L.A. Wildish). The applicant obtained its interest in the following described parcels pursuant to that Subscription Agreement between the applicant and the Thomas C. Wildish Trust B and L.A. Wildish, a copy of which is attached as Exhibit F. The Schedule of Properties to be Transferred to Wildish Land Co. contains references to the following described parcels by the names of third parties that had previously sold to either T.C. Wildish Co. or its partners, L.A. Wildish and Tom and Verna Wildish (see references to Shelly, Silva, Wingard and Flynn).

T.C. Wildish Co. no longer exists as a legal entity (as Wildish Land Co. is its successor) and the following described parcels should have been conveyed to the applicant by T.C. Wildish Co. on the same December 31, 1966 date as T.C. Wildish Co. conveyed the above-described parcels. Including Tax Lot 3500 of 18-03-11, (which T.C. Wildish Co. only held the vendee's interest in a land sale contract with Silva, a copy of the Memorandum of Contract is attached as Exhibit G), beneficial interests in the following described parcels were transferred to the applicant, Wildish Land Co., by owners of T.C. Wildish Co. pursuant to the stock subscription agreement dated December 31, 1966. The failure of T.C. Wildish Co. to convey the legal interest to its successor, Wildish Land Co. (except for the Silva contract interest), was an error just recently discovered through analysis of the applicant's potential Ballot Measure 37 claims.

Regardless of the error in failing to convey the following described parcels, the applicant obtained its interest in those parcels pursuant to the stock subscription agreement in 1966 and the applicant has exercised all of the tenants of ownership of those parcels ever since. The applicant has controlled, managed and used those parcels as its own since 1966, and have paid the property taxes on the same since that date. Copies of property tax payments, made by Wildish Land Co. on the following described parcels are attached as Exhibit H and serve as additional substantial evidence of the applicant's ownership interest in the following described parcels. Those parcels are described as follows:

180301 TL 3500 (Silva LSK)  
180311 TL 500 (Shelley to T/V ('52) to TCW (12/16/63)  
180312 TL 900 (Wingard to T/V ('55) to TCW (12/16/63)  
180312 TL 1000 (Flynn to T/V ('56) to TCW (12/16/63)  
180312 TL 400 (Wingard to T/V ('59), Wingard to TCW ('65)

Copies of deeds from Silva, Shelley, Wingard and Flynn to Tom and Verna Wildish, eventual Trustees of the Thomas C. Wildish Trust B, are attached as Exhibit I.

The applicants have provided the requisite evidence to demonstrate that they are true owners of the subject property and that they have had an interest in the subject property since March 9, 1954.

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

**Response:**

As hereinabove detailed, the Lane County Assessor's Maps for the subject property are No.s 18-02-07, 18-02-08, 18-02-09, 18-02-10, 18-02-16, 18-03-11 and 18-03-12. Property description cards, obtained from the Lane County Department of Assessment and Taxation are attached as Exhibit I. The subject property does not have a street address.

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

**Response:**

See discussion of 2.1.b. above.

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

**Response:**

Lane County enacted its first zoning ordinance, Lane Use Ordinance #4, on May 31, 1949. A copy of Ordinance #4 is attached as Exhibit J. On July 27, 1966, Lane County enacted Ordinance No. 223 which zoned the following parcels of the subject property Agriculture, Grazing, Timber Raising District (AGT), (a copy of the relevant portions of Ordinance No. 223 is attached as Exhibit K):

18-02-07 Tax Lots 100, 200 and 1000;

18-02-08 Tax Lot 700 and the portion of Tax Lot 801 located in the boundaries of Section 8;

18-03-11 Tax Lot 500; and

18-03-12 Tax Lots 300, 400, 900 and 1000.

On December 31, 1966, the uses and development of the AGT-zoned parcels of the subject property were regulated by Section VI of Land Use Ordinance #4, as amended (Ordinance No.

26, attached as Exhibit L, adopted September 25, 1951, defined "Agriculture" and "Grazing", and Ordinance No. 45, attached as Exhibit M, enacted December 5, 1952, included provisions for "single family dwellings, duplexes and accessory buildings thereto when developed in accordance with the conditions established under Section VIII in subdivisions approved by the Planning Commission").

On March 8, 1949, the Lane County Court adopted Ordinance #3 which regulated subdivisions and related road dedications. A copy of Ordinance #3 is attached as Exhibit N. On May 2, 1962, the Lane County Board of Commissioners adopted the LANE COUNTY REVISED SUBDIVISION ORDINANCE, a copy of which is attached as Exhibit O. Any subdivision of the subject property had to comply with the requirements of that ordinance which provided, in certain circumstances, for the creation of lots containing a minimum of 6,000 square feet of area in "urbanizing" areas where municipal or private corporation water and sewage disposals systems would be used.

Lane County adopted three ordinances in 1984 that established the current zoning of the subject property. Those ordinances, and the accompanying numbered Lane County Zoning Map Plots for each parcel, are as follows:

- Ordinance No. 886, adopted on February 29, 1984, and attached as Exhibit P, zoned portions of the subject property as follows:

18-03-01 TL 3500, #425 – Park and Recreation Zone (PR);  
18-03-11 TL 500 (N of Coast Fork Willamette River), #412 – Sand, Gravel and Rock Products Zone (SG);  
18-03-12 TL 300, #425 – (SG);  
18-03-12 TL 400, #425 – (SG);  
18-03-12 TL 900 (N of Coast Fork), #425 – (SG);  
18-03-12 TL 1000 (N of Coast Fork), #425 – (SG);  
18-02-07 TL 100, #1011 – Impacted Forest Lands Zone (F2);  
18-02-07 TL 200, #1011 – (F2);  
18-02-07 TL 1000, #1011 – (F2);  
18-02-08 TL 601, #1012 – (SG);  
18-02-08 TL 700, #1012 – (F2);  
18-02-08 TL 801, No zoning specified;  
18-02-08 TL 900, #1011 – (SG);  
18-02-09 TL 1401, #1013 – (SG);  
18-02-09 TL 400 (portion N of river), #1013 – (E25) and (SG);  
18-02-09 TL 400 (portion S of river), #1013 – (SG);  
18-02-09 TL 900, #1013 – (SG);  
18-02-09 TL 1404, #1013 – (E25) and (SG);  
18-02-10 TL 503, #1013 – (E25);  
18-02-10 TL 502, #1013 – None (previous Farm-Forestry 20 (F-F 20) may still be applicable);  
18-02-16 TL 101, #459 – (SG);

- Ordinance No. 891, adopted on September 12, 1984, and attached as Exhibit Q, zoned portions of the subject property as follows:

18-03-01 TL 3500, #425 – From (PR) to (SG);  
18-02-07 TL 100, #1011 – From (F2) to Nonimpacted Forest Lands Zone (F1);  
18-02-07 TL 200, #1011 – From (F2) to Exclusive Farm Use (E30);  
18-02-07 TL 1000, #1011 – From (F2) to (E30);  
18-03-08 TL 700, #1012 – From (F2) to (F1);  
18-02-08 TL 801, #1013 and 1022 – (SG).

- Ordinance No. 884, adopted on February 29, 1984, and attached as Exhibit R, zoned portions of the subject property as follows:

18-03-11 TL 500 (S of Coast Fork), #412 – (SG);  
18-03-12 TL 900 (S of Coast Fork), #425 – (E25);  
18-03-12 TL 1000 (S of Coast Fork), #425 – (E25);

The regulatory boundaries of the Willamette River Greenway are designated on the zoning maps adopted by Ordinances No. 886, 891 and 884. Copies of all relevant Lane County Official Zoning Map Plots for the subject property are attached as Exhibit S. The above-mentioned parcels are, in varying degrees, located in the Willamette River Greenway (see Greenway boundary maps in the Willamette River Green Plan, adopted by Lane County as part of Ordinance Number 783, adopted on February 27, 1980). Lane Code 16.254 regulates uses in the boundaries of the Greenway and requires approval of Greenway Development Permits for new intensifications, changes of use or developments allowed by the applicable zones.

Development of the subject property must comply with the requirements for protecting significant Goal 5 resources in Policies C.15 – C.18 in Chapter III-C, Environmental Resources Element, of the Eugene Springfield Metropolitan Area General Plan (Metro Plan). On August 27, 1980, by Ordinance No. 9-80, the Lane County Board of Commissioners adopted the Metro Plan and amended it thereafter on October 15, 1980, and on February 3, 1982 (Ordinance No. 856). The adoption of Ordinance 9-80 incorporated the subject property into the Metro Plan.

On June 2, 2004, the Lane County Board of Commissioners adopted Ordinance No. PA 1197, attached as Exhibit T, that includes current Metro Plan findings and policies for “Riparian Corridors, Wetlands and Wildlife Habitat (Goal 5)” and for “Mineral and Aggregate Resources (Goal 5).”

In addition to Ordinances 886, 891 and 884, Ordinance 9-80 and Ordinance No. PA 1197, the primary land use regulations that restrict the use of the subject property are found in Lane Code 16.210, Lane Code 16.211, Lane Code 16.212 and Lane Code 16.217. The provisions of Lane Code 16.210, 16.211, 16.212 and 16.217 restrict the residential and commercial use of the subject property and require a minimum area requirement of 25, 30 and 80 acres, respectively, for the creation of new lots or parcels in the Non-Impacted Forest Zone on property designated as F1 on Lane County Zoning Map Plots, in the Impacted Forest Zone on property designated as F2 on Lane County Zoning Map Plots, in the Exclusive Farm Use Zone on property designated as E30 on Lane County Zoning Map Plots and in the Sand, Gravel and Rock Products Zone on property designated as SG on Lane County Zoning Map Plots. Those Lane Code provisions and the above-referenced Zoning Map Plots prevent the applicant from subdividing its property into buildable parcels, for residential and commercial uses, less than 25, 30 and 80 acres in size, as

was allowed by Lane County regulations (or the lack thereof) prior to the county's adoption of Ordinances 886, 891 and 884, Ordinance 9-80, Ordinance No. Pa 1197 and the current code provisions.

The Lane County Board of Commissioners adopted Ordinance No. 5-04 on June 2, 2004. Ordinance No. 5-04 contains the current provisions of Lane Code 16.210 for the F1 zone, Lane Code 16.211 for the F2 zone and Lane Code 16.212 for the E30 zone. Those provisions allow limited commercial and industrial uses and only a single residential dwelling to be placed on the property pursuant to a variety of criteria and standards. The provisions require, with a few narrow exceptions, a minimum area of 25, 30 or 80 acres for newly created parcels. A copy of the relevant portions of Ordinance No. 5-04 is attached as Exhibit U.

On June 2, 2004, the Lane County Board of Commissioners adopted Ordinance No. 10-04, that contains the current requirements of LC 16.217 for the SG zone. A copy of the relevant portions of Ordinance No. 10-04 is attached as Exhibit V.

If the aforementioned current Lane County regulations did not exist, or were consistent with provisions of Lane County regulations preceding the dates that applicant obtained its interest in the subject property, the value of the applicant's property would be considerably higher if divided into parcels less than 25, 30 and 80 acres in size for residential or commercial use rather than remaining in its current configuration with the aforementioned use and acreage restrictions in place.

In addition to the above-mentioned ordinances, Zoning Map Plots, and LC 16.210, LC 16.211, LC 16.212, and LC 16.217, the following Lane County regulations restrict the use of the subject property by the applicant:

- LC 10.100-10, 30 and 40
- LC 13.050(1), (2), (5), and (12)
- LC 15.045(1)
- LC 15.070
- LC 15.080
- LC 15.137
- LC 15.138
- LC 16.254

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

**Response:**

The applicant retained the services of Charles P. Thompson & Associates, Certified Residential Real Estate Appraiser (hereinafter referred to as "Thompson"), to prepare written appraisals of the subject property indicating the difference in the fair market value of it as currently configured and restricted and as if configured into smaller parcels with residential use permitted thereon. Thompson's appraisals are attached hereto as Exhibit W.

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

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

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

**Response:**

(See discussion above in Section 2.1.e.)

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

**Response:**

See discussion above in sections 2.1(e) and (f) and below in section 2.1(h).

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

**Response:**

See discussion above in sections 2.1(b), (d) and (e).

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

**Response:**

Ordinances 886, 891, and 884, Ordinance 9-80 and Ordinance No. PA 1197, Lane Code 16.210, Lane Code 16.211, Lane Code 16.212, LC 16.217 and the Lane Code provisions listed in the Response to section 2.1(e) above are land use regulations as defined by provisions added to ORS Chapter 197 by Ballot Measure 37. They do not restrict or prohibit public nuisances, are not public health and safety protection regulations, are not required to comply with federal law, do not relate to the use of the property for pornography or nude dancing and were not enacted prior to the date the applicants acquired the property.



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

**Response:**

The applicant claims from Lane County the sum of \$15,400,000, which sum represents the reduction in market value of the subject property resulting from Lane County's enforcement of the aforementioned regulations that restrict residential use of the property and which prohibit land divisions to parcels less than 25, 30 and 80 acres in size.

According to Thompson's appraisals the total fair market value of the subject property before the application of the aforementioned challenged land use regulations is \$21,000,000. Thompson's appraisals are conservative, limited by their appraisal of the property as if containing 300 residential home sites between one and four acres in size, the subject property could have been subdivided into parcels as small as one acre in size and, if appraised in that configuration, could arguably be worth more than if developed into fewer, larger, parcels. According to Thompson's appraisals, the fair market value of the subject property after the application of the aforementioned challenged land use regulations is \$5,600,000. The reduction in fair market value of the subject property resulting from Lane County's restrictions on its use totals at least \$15,400,000, the amount of the claim herein.

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

**Response:**

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

**2. CONCLUSION.**

The applicant has demonstrated that Lane County's enforcement of Ordinances 886, 891, and 884, Ordinance 9-80 and Ordinance No. PA 1197 and provisions of LC 16.210, 16.211, 16.212, 16.217 and 16.254 restricts its use of the subject property to resource use on 25, 30 and 80-acre minimum parcel sizes. Those restrictions reduce the fair market value of the property from what it would be if residential or commercial use on parcels less than 25, 30 and 80 acres in size was allowed. The applicant has demonstrated compliance and consistency with the provisions added to ORS Chapter 197 by Ballot Measure 37 and LC 2.700. Accordingly, the applicant's claim for just compensation for the reduction in the fair market value of its property as a result of the restriction should be paid by Lane County. In lieu of such payment of just compensation, Lane

County should waive all offending regulations adopted subsequent to the dates that the applicant obtained its interest in the subject property that prevent the applicant from subdividing the subject property to into buildable residential or commercial lots of less than 25, 30 and 80 acres in size.



June 26, 2006

Wildish Land Company  
PO Box 7428  
Eugene, OR 97401-0428

**RE: Complete Appraisal - Summary Report of real property consisting of approximately 1,400 acres of land situated on the south and east sides of the Middle Fork of the Willamette River, the north side of the Coast Fork of the Willamette River, east of Interstate-5, and north of Seavey Loop Road, Lane County, Oregon.**

Dear Gentlemen:

Pursuant to your request, I have personally inspected the above-referenced property for the purpose of estimating the market value as currently zoned and also under the *hypothetical condition* and *extraordinary assumption* that the property was zoned such that it could be subdivided into 300 or more residential building sites.

It is my understanding that the appraisal will be utilized in filing a claim under Measure 37. The two value estimates are set forth as follows:

Estimated Value of Subject Property under the  
*Hypothetical condition* and *extraordinary assumption* that it is currently  
zoned such that it could be divided into 300 or more residential building sites,  
effective June 17, 2006: .....\$21,000,000

Estimated Value of Subject Property as currently zoned  
effective June 17, 2006: .....\$5,600,000

**Potential Measure 37 Claim:.....\$15,400,000**

The interests valued in this case are the fee simple interests.

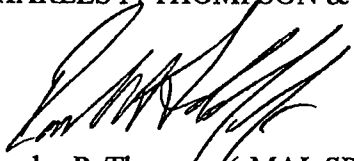
This Complete Appraisal - Summary Report has been completed in conformity with the Code of Ethics and Standards of Professional Practice of the Appraisal Institute, and is in accordance with the 2005 edition of the Uniform Standards of Professional Appraisal Practice (USPAP), adopted by the Appraisal Foundation.

This summary appraisal report is respectfully submitted and your attention drawn to the "Assumptions and Limiting Conditions" as set forth beginning on page 46.

If you have any questions or need additional information, please contact me at your convenience.

Very truly yours,

CHARLES P. THOMPSON & ASSOC., INC.



FOR CHARLES P. THOMPSON

Charles P. Thompson, MAI, SRA  
Oregon State Certified General Appraiser #C000007