

W.17.d-



Memorandum Date: September 1, 2006  
Order Date: September 13, 2006

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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 (PA06-5396, JOHNSON)

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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 Donald Johnson to use the property as allowed at the time he acquired an interest in the property?

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

**Applicant:** Donald Johnson

**Current Owner:** Donald Johnson

**Agent:** Steve Cornacchia

**Map and Tax lot:** 18-04-21 #500.

**Acreage:** 44 acres

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

**Date Property Acquired:** November 18, 1952.

**Date claim submitted:** March 9, 2006. The 180-day processing deadline is September 5, 2006.

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

**County land use regulation which restricts the use and reduces the fair market value of applicant's property:** Minimum lot size and restrictions on new dwellings in the E40 zone (LC 16.212).

**B. Policy Issues**

This claim does not involve any administrative policy or objective.

**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 \$1,850,000 or a waiver of the E40 (Exclusive Farm Use) zone regulations that prohibit the division of the property into lots containing less than 40 acres and construction of a dwelling on each lot.

**E. Analysis**

The applicant has submitted information in support of this claim including an appraisal, deeds and the processing fee. The property is undeveloped, contains approximately 44 acres and is zoned E40. In this zone, the minimum lot size is 40 acres and new dwellings require a special use permit. The applicant wishes to subdivide the property into lots that contain less than 40 acres and place a dwelling on each lot.

Donald Johnson acquired an interest in this property on November 18, 1952 (WD 93965). The property was unzoned until February 11, 1966. The appraisal states the current fair market value of the property is \$450,000. If it were divided into 10-acre lots, it could be worth \$2,300,000. The alleged reduction in fair market value would be \$1,850,000.

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**

Donald Johnson acquired an interest in this property on November 18, 1952 (WD 93965) when it was unzoned. Currently, the E40 zone requires new lots to contain at least 40 acres and new dwellings require a special use permit. Because of these restrictions, he is prevented from developing the property as could have been allowed when he acquired an interest.

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

The applicant has submitted an appraisal. This opinion alleges a reduction of \$1,850,000 if the property can not be subdivided into ten-acre lots. If the Board determines the submitted evidence demonstrates a reduction in fair market value resulting from enforcement of a restrictive land use regulation, it appears this is a valid claim.

### **Exempt Regulations**

The E40 (Exclusive Farm Use) zone limitations on new dwellings, and the minimum parcel size of 40 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710.

### **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.

### **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 applicant 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 minimum lot size and restrictions on new dwellings in the E40 (Exclusive Farm Use) zone.

**VII. FOLLOW-UP**

No other action is required.

**VII. ATTACHMENTS**

Draft order to approve the claim of Donald Johnson.

Vicinity map

Claim submitted on March 9, 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 (Donald Johnson/  
 ) PA06-5396).

**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 Donald Johnson (PA06-5396), the owner of real property described in the records of the Lane County Assessor as map 18-04-21, tax lot 500, 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 September 13, 2006, the Board conducted a public hearing on the Measure 37 claim (PA06-5396) of Donald Johnson and has now determined that the restrictive E40 (Exclusive Farm Use) zone dwelling and land division requirements of LC 16.212 were enforced and made applicable to prevent Donald Johnson from developing the property as might have been allowed on November 18, 1952, the date he acquired an interest in the property, and that the public benefit from application of the current E40 restrictions on new dwellings and the

minimum parcel size to the applicant's property is outweighed by the public burden of paying just compensation; and

**WHEREAS**, Donald Johnson requests either \$1,850,000 as compensation for the reduction in value of his property, or waiver of all land use regulations that would prevent the division of the land into lots that contain less than 40 acres and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time he acquired an interest in the property; and

**WHEREAS**, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the E40 zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to allow Donald Johnson to make application for development of the subject property in a manner similar to what he could have been able to do under the regulations in effect when he acquired an interest in the property on November 18, 1952; and

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

**NOW, THEREFORE IT IS HEREBY ORDERED** that the applicant Donald Johnson 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 he 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 Donald Johnson shall be granted and the restrictive provisions of LC 16.212 that prevent the division of the land into lots containing less than 40 acres and placement of a dwelling on each lot in the E40 (Exclusive Farm Use) Zone shall not apply to Donald Johnson, so that he can make application for approval to develop the property described in the records of the Lane County Assessor as map 18-04-21, tax lot 500, in a manner consistent with the land use regulations in effect when he acquired the property on November 18, 1952.

**IT IS HEREBY FURTHER ORDERED** that Donald Johnson still will need to make application and receive approval for a division of the property and placement of a dwelling under the other land use regulations applicable to dividing the land and placing a dwelling that were not specifically identified or established by Donald Johnson as restricting the division of the land and 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 a new dwelling to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37, 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 Donald Johnson does not constitute a waiver or modification of state land use regulations and does not authorize immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml> ) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

**IT IS HEREBY FURTHER ORDERED** that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to divide or build dwellings can be transferred to another 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.

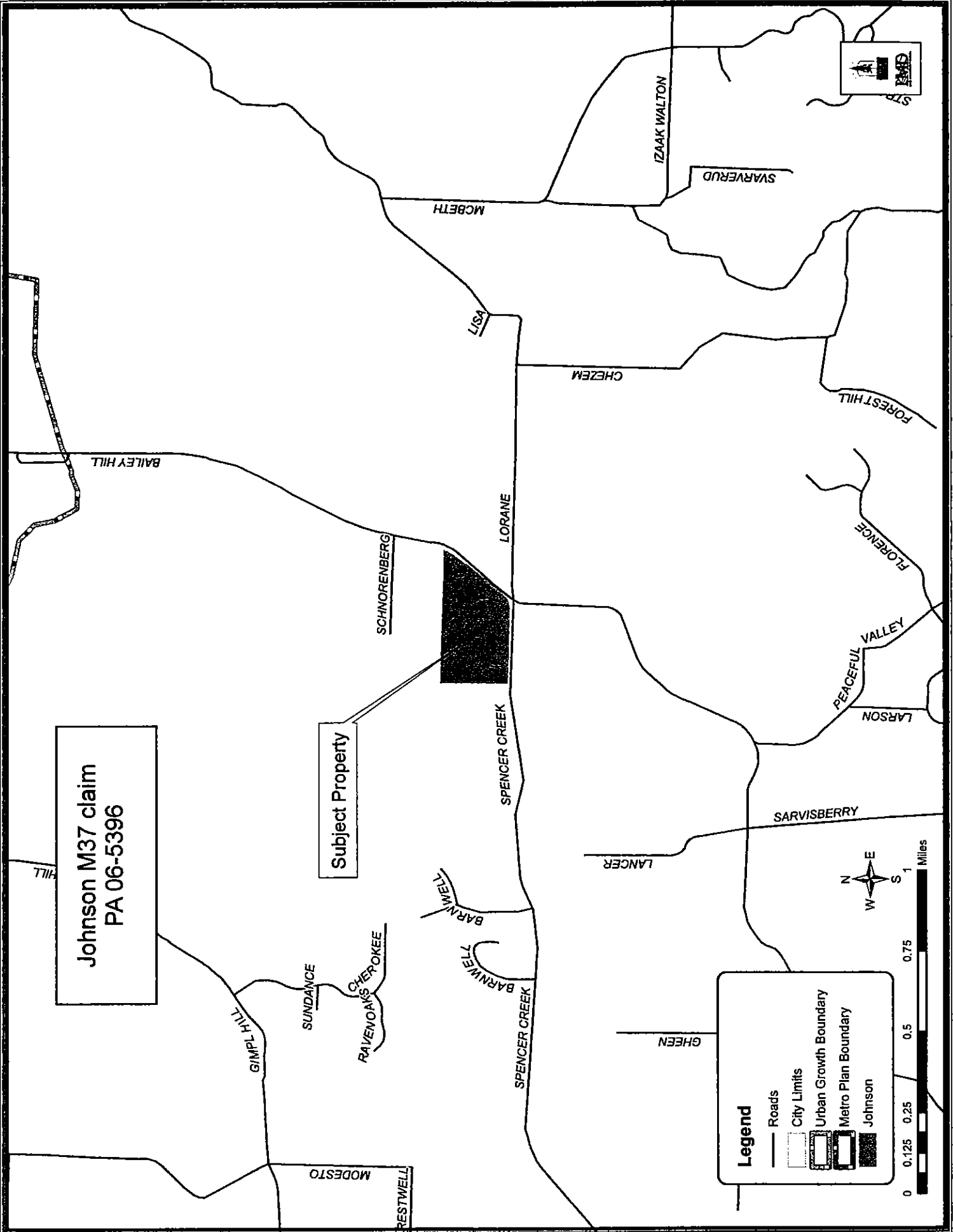
**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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

APPROVED AS TO FORM

Date 9-5-2006 Lane County

  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

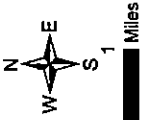


Johnson M37 claim  
PA 06-5396

Subject Property

**Legend**

- Roads
- City Limits
- Urban Growth Boundary
- Metro Plan Boundary
- Johnson





## 1. INTRODUCTION.

The applicant, Donald W. Johnson, claims that Lane County's enforcement of land use regulations that restrict the use of his property has reduced the fair market value of his 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 him just compensation for the reduction in the fair market value of his 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 him from subdividing the subject property to buildable lots of less than forty acres in size.

The applicant obtained an interest in the subject property on November 18, 1952, and has owned the subject property continuously since that time. Lane County adopted a zoning ordinance on May 31, 1949, but did not exercise its authority to zone the subject property at that time. The subject property was not zoned, or otherwise regulated relative to use, by Lane County on November 18, 1952.

The property is zoned Exclusive Farm Use 40 (E40). That zoning, as applied by LC 16.212, will not permit land divisions below 40 acres in size for the resulting parcels and will not permit the placement of dwellings on the subject parcels except under very limited circumstances.

## 2. BACKGROUND INFORMATION.

### 2.1 General Site Description.

The property subject to this application consists of an irregular-shaped parcel, approximately 44.38 acres in size, and located on the northwest corner of the intersection of Bailey Hill Road and Spencer Creek Road (Lorane Highway).

The subject property is described as Tax Lot 500 of Lane County Assessor's Map No. 18-04-21-00.

The subject property is undeveloped and vacant.

The subject property receives the following public services: Eugene School District No. 4J (schools); Emerald Peoples Utility District (electrical power); Qwest (telephone); LTD (bus service); Lane County Sheriff's Department and Oregon State Police.

### 2.2 List of Exhibits:

- Exhibit A - Assessor's Map No. 18-04-21-00
- Exhibit B - Legal Description
- Exhibit C - Lane County Application Form
- Exhibit D - Schnorenberg Warranty Deed
- Exhibit E - Johnson and Johnson Bargain and Sale Deed

- Exhibit F - Second Johnson and Johnson Bargain and Sale Deed
- Exhibit G - Johnson Deed Creating Estate In Entirety
- Exhibit H - Lane County Official Zoning Map Plot 298
- Exhibit I - Ordinance No. 884
- Exhibit J - Land Use Regulation Ordinance #4
- Exhibit K - Ordinance No. 204
- Exhibit L - 1951-1968 Amendments to Ordinance #4
- Exhibit M - Appraisal Reports prepared by Craig E. McKern, Certified Real Estate Appraiser

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

**3.1 Lane Code 2.720 Application for Claim**

Lane Code 2.720 requires that the applicant be the present owner of the property that is the subject of the claim at the time the claim is submitted. The applicant is the present owner of the subject property.

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

- a. **A completed application form;**

**Response:**

A completed 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, free and clear of all encumbrances. The name, mailing address and phone number of the applicant are:

Donald W. Johnson 511 NW Woodson Drive, Grants Pass, OR 97526; (541) 476-5077.

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 a one-third interest in the subject property on November 18, 1952. On that date, the applicant obtained his interest in the subject property from Mary Elizabeth Schnorenberg. On that date, Ms. Schnorenberg

conveyed the fee interest in the subject property to the applicant and his parents, William A. Johnson and Agnes R. Johnson, by Warranty Deed. A copy of the Schnorenberg deed to the applicant and his parents is attached as Exhibit D.

The applicant obtained a second one-third interest in the subject property from his parents on October 17, 1968, by Bargain and Sale Deed. A copy of the William A. Johnson and Agnes R. Johnson Bargain and Sale Deed is attached as Exhibit E. The applicant obtained the final one-third interest in the subject property from his parents on April 17, 1969, by Bargain and Sale Deed. A copy of that Bargain and Sale Deed is attached as Exhibit F. On October 6, 1969, the applicant transferred an undivided one-half interest in the subject property to his wife, Beverly A. Johnson, by Deed Creating Estate in Entirety. A copy of that deed is attached as Exhibit G. Beverly A. Johnson died on March 27, 1977, and her interest passed to the applicant on that date by operation of law. The applicant has owned the fee of the subject property since March 27, 1977.

The applicant has provided the requisite evidence to demonstrate that he is the true owner of the subject property and that he has had an interest in the subject property since November 18, 1952.

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

**Response:**

A legal description of the subject property is attached hereto as Exhibit B. The Lane County Assessor's Map No. for the subject property is 18-04-21. The subject property does not have a street address.

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

**Response:**

See discussion of 3.1.b. above.

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

**Response:**

The subject property is zoned Exclusive Farm Use 40 Acre Minimum (E40) as depicted on Lane County Official Zoning Map Plot 298, adopted by Lane County as part of Ordinance 884 on February 29, 1984. A copy of Plot 298 is attached as Exhibit H and a copy of Ordinance 884 is

attached as Exhibit I. In addition to Ordinance 884, the primary land use regulations that restrict the use of the subject property are Lane Code 16.212(3)-(7) which restrict the residential use of the subject property and Lane Code 16.212(9) which requires a minimum area requirement of forty acres for the creation of new lots or parcels in the Exclusive Farm Use Zone on property designated as E40 on Lane County Zoning Maps. Those Lane Code provisions and Zoning Map Plot 298 prevent the applicant from subdividing his property into residentially buildable parcels less than 40 acres in size as was allowed by Lane County regulations (or the lack thereof) prior to the county's adoption of Ordinance 884 and the current code provisions.

On May 31, 1949, the Lane County Court approved Land Use Regulation Ordinance #4 which established a basis to zone land in Lane County. A copy of the first and last page of that ordinance is attached as Exhibit J. On January 13, 1966, the Lane County Board of Commissioners adopted Ordinance No. 204 which established the first zoning of the subject property (as A.G.T., Agriculture, Grazing and Timber Raising District). A copy of Ordinance No. 204 is attached as Exhibit K.

Between September 27, 1951 and August 14, 1968, Lane County amended Land Use Regulation Ordinance #4 several times to define Agriculture and Grazing, to expand allowable uses, to provide a minimum area requirement of one acre for residential use and to establish minimum setback requirements. Copies of those amendments are attached as Exhibit L.

On February 29, 1984, Lane County adopted Ordinance 884 which further restricted the applicant's use of his property subsequent to his acquisition of it by designating it on the Rural Comprehensive Plan diagram map as "Agricultural" and rezoning it as Exclusive Farm Use, E40, which it remains today. A copy of the relevant portions of that ordinance is attached as Exhibit M.

If the aforementioned current Lane County regulations did not exist, or were consistent with provisions of Lane County regulations preceding November 18, 1952, the value of the applicant's property would be considerably higher if divided into one-acre or larger parcels for residential use rather than remaining in its current configuration with the aforementioned use and acreage restrictions in place.

In addition to Ordinance 884, Zoning Map Plot 298 and LC 16.212 (3)-(7), (9) and (10), the following Lane County regulations restrict the use of the subject property by the applicant:

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

f. **A copy of a written appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, addressing the**

**requirements of the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after the application of each of the challenged regulations, individually, and after the application of all of the challenged regulations, cumulatively;**

**Response:**

The applicant retained the services of Craig E. McKern, Certified Residential Real Estate Appraiser, to prepare written appraisals of the subject property indicating the difference in the fair market value of it as currently configured and restricted and as if configured into buildable four-acre parcels. Mr. McKern's appraisals are attached hereto as Exhibit N.

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

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

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

**Response:**

The subject property is zoned Exclusive Farm Use 40 Acre Minimum (E40) as depicted on Lane County Official Zoning Map Plot 298, adopted by Lane County as part of Ordinance 884 on February 29, 1984. In addition to Ordinance 884, the primary land use regulations that restrict the use of the subject property are Lane Code 16.212(3)-(7) which restrict the residential use of the subject property and Lane Code 16.212(9) which requires a minimum area requirement of forty acres for the creation of new lots or parcels in the Exclusive Farm Use Zone on property designated as E40 on Lane County Zoning Maps. (See discussion above in Section 3.1.e.)

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

**Response:**

See discussion above in sections 3.1(e) and (f) and below in section 3.1(h).

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

**Response:**

Ordinance 884 and Zoning Map Plot 298 were adopted on February 29, 1984, subsequent to the applicant obtaining his interest in the subject property. See discussion above in sections 3.1(d) and (e).

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

**Response:**

Ordinance 884, Lane Code 16.212(3)-(7) and (9) and the Lane Code provisions listed in the Response to section 3.1(e) above are land use regulations as defined by provisions added to ORS Chapter 197 by Ballot Measure 37. They do not restrict or prohibit public nuisances, are not public health and safety protection regulations, are not required to comply with federal law, do not relate to the use of the property for pornography or nude dancing and were not enacted prior to the date the applicants acquired the property.

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

**Response:**

The applicant claims from Lane County the sum of \$1,850,000, which sum represents the reduction in market value of the subject property resulting from Lane County's enforcement of the aforementioned regulations that restrict the residential use of the property and which prohibit land divisions to parcels less than 40 acres in size.

According to Mr. McKern's appraisal, the total fair market value of both parcels that constitute the subject property before the application of the aforementioned challenged land use regulations is \$2,300,000. Mr. McKern's appraisal is conservative, limited by his appraisal of the property as if configured in four-acre parcels. Under county regulations existing in 1952, the subject property could have been subdivided into parcels as small as one acre and, if appraised in that configuration, could arguably be worth more than if developed into fewer, larger, parcels. Mr. McKern appraised the property under a scenario containing only 10 four-acre lots on the subject property's approximately 44.38 total acres. According to Mr. McKern's appraisal, the fair market value of the subject property after the application of the aforementioned challenged land use regulation is \$450,000 (assuming the ability to site a dwelling). The reduction in fair market value of the subject property resulting from Lane County's restrictions on its use totals at least \$1,850,00, the amount of the claim herein.

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

**Response:**

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

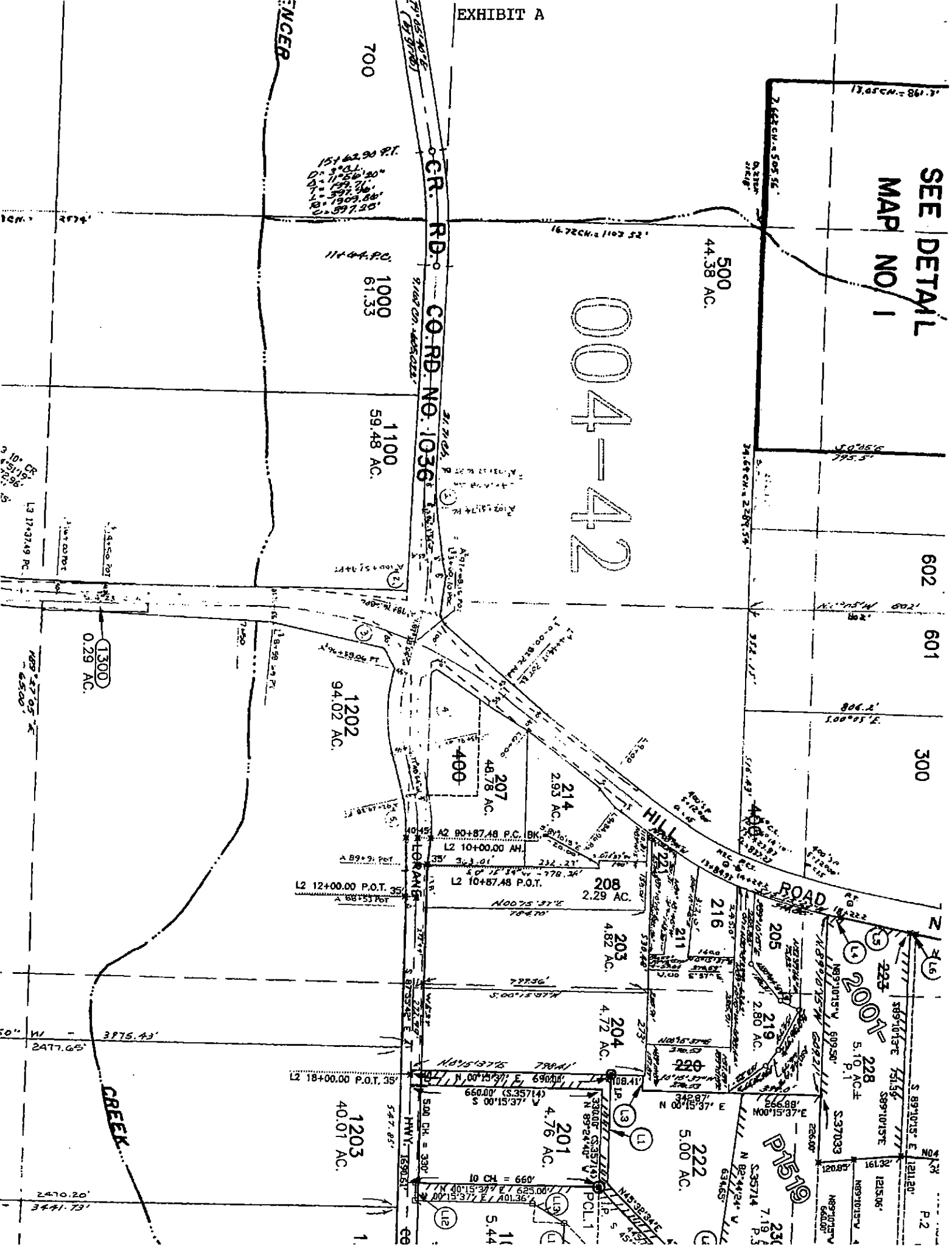
**4. CONCLUSION.**

The applicant has demonstrated that Lane County's enforcement of Ordinance 884 and provisions of LC 16.212 restricts the use of the subject property to agricultural use on 40-acre minimum parcel sizes and that the restrictions reduce the fair market value of the property from what it would be if residential use on parcels less than forty 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 his property as a result of the restriction should be paid by Lane County. In lieu of such payment of just compensation, Lane County should waive the offending regulations as provided above that prevent the applicant from subdividing the subject property to into buildable residential lots of less than forty acres in size.

SEE DETAIL  
MAP NO. 1

004-42

EXHIBIT A





## Exhibit B

### Legal Description

Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 21 of Township 18 South, Range 4 West of the Willamette Meridian, and running thence North 16.72 chains to the center of a vacated County road; thence East along the center line of the said vacated road 34.69 chains to the center of the Bailey Hill Road; thence South 37° 49' West along the center of the Bailey Hill Road, 21.17 chains to the center of the County Road; thence West along the center of the County Road, 21.71 chains to the place of beginning, containing 47.14 acres, more or less, in Lane County, Oregon.

Measure 37 Claim Number: M37-065396

**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**

Donald W. Johnson                      511 NW Woodson Drive, Grants Pass, OR 97526 (541)476-5077  
Applicant Name (Please Print)              Mailing Address                                      Phone

Steve Cornacchia                      180 E. 11th Ave., Eugene, OR 97401 (541)686-8511  
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.

Donald W. Johnson                      511 NW Woodson Drive, Grants Pass, OR 97526 (541)476-5077  
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 18042100 0500  
Street Address None                                      Legal Description Attached x

**4. Identification of Imposed Land Use Regulation**

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.740(1).  
See attached narrative.

**5. Title Report**

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

**6. Appraisal/Regulatory Effect**

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

See Exhibit N attached.

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

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

None

**8. Identification of Relief Sought**

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

Monetary Claim: \$1,850,000

Waiver: Use and lot size restrictions preventing residential use on parcels less than 40 acres in size.

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

Donald W. Johnson  
Owner(s) Signature Donald W. Johnson

Feb. 27, 06'  
Date

Steve Lammiman HERSHNER PLANNING  
Applicant/Agent Signature

3/6/06  
Date

The following contacts are provided to assist you in finding the necessary information for this application.

For zoning and land use information, please contact the Land Management Division at 682-3577.

*This phone contact is a message line. Please leave a message and a Planner will return your call.*

For deeds and records information, please contact Lane County Deeds and Records at 682-3654.

93965

THIS INDENTURE WITNESSETH: That I, MARY ELIZABETH SCHNORENBERG, a single person,

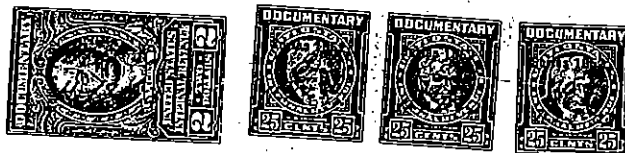
, for and in consideration of the sum of - - - Ten and no/100 - - - DOLLARS to us paid, do hereby, bargain, sell and convey unto

WILLIAM A. JOHNSON and AGNES R. JOHNSON and DONALD W. JOHNSON

the following described premises, to-wit:

Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 21 of Township 18 South, Range 4 West of the Willamette Meridian, and running thence North 16.72 chains to the center of a vacated County Road; thence East along the center line of the said vacated road 34.69 chains to the center of the Bailey Hill Road; thence South 37° 49' West along the center of the Bailey Hill Road, 21.17 chains to the center of the County Road; thence West along the center of the County Road, 21.71 chains to the place of beginning, containing 47.14 acres, more or less, in Lane County, Oregon.

The grantees herein do not take the title in common but with the right of survivorship; that is, that the fee shall vest in the survivor of the grantees.



TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said Grantees, their heirs and assigns forever.

And I, the said Grantor, do hereby covenant to and with the said Grantee s, their heirs and assigns that I am the owner in fee simple of said premises; and that they are free from all incumbrances

and that I will warrant and defend the same from all lawful claims whatsoever. IN WITNESS WHEREOF, I have hereunto set my hand and seal this 18th day of November A. D. 1952

Mary Elizabeth Schnorenberg (SEAL) X
Marilyn E. Potter (SEAL)
Dorothy A. Schnorenberg (SEAL)

STATE OF OREGON, COUNTY OF LANE ss. Be it remembered that on this 18th day of November, A. D. 1952 personally came before me, a Notary Public in and for said county, the within named

Mary Elizabeth Schnorenberg, a single person, to me personally known to be the identical person described in and who executed the within instrument, and acknowledged to me that she executed the same freely and voluntarily for the uses and purposes therein named

Witness my hand and seal this day and year last above written. My Commission Expires 7-19-53 Notary Public for Oregon

93965

WARRANTY  
DEED.

6133-

From: Mary Elizabeth Schnorenberg <sup>4</sup> 5/14/40

To: William A. Johnson, et al

Box 204  
Eugene, Ore.

State of Oregon,  
County of Lane--ss.  
I, Harry L. Chase, County Clerk and  
ex-officio Recorder of Conveyance, in  
and for said County, do hereby certify  
that the within instrument was received  
for record at

1953 JAN 8 PM 12 55

REEL 10 53 D

and Recorded  
In Book..... on Page.....  
Lane County..... Records.  
HARRY L. CHASE, County Clerk.  
By *Flem* Deputy.

CALKINS & CALKINS  
Attorneys at Law  
Eugene, Oregon

BARGAIN & SALE DEED

KNOW ALL MEN BY THESE PRESENTS, That we, WILLIAM A. JOHNSON and AGNES R. JOHNSON, husband and wife, owners of an undivided two-thirds interest in the hereinafter described property, there being no consideration for this transfer, do hereby bargain, sell and convey unto DONALD W. JOHNSON, an undivided one-third interest in and to the following described real estate, to-wit:

Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 21 of Township 18 South, Range 4 West of the Willamette Meridian, and running thence North 16.72 chains to the center of a vacated County Road; thence East along the center line of the said vacated road 34.69 chains to the center of the Bailey Hill Road; thence South 37°49' West along the center of the Bailey Hill Road, 21.17 chains to the center of the County Road; thence West along the center of the County Road, 21.71 chains to the place of beginning, containing 47.14 acres, more or less, in Lane County, Oregon.

It is the intention of this conveyance to create an undivided two-thirds interest in the grantee and retain an undivided one-third interest in the grantors herein.

To Have and to Hold the same unto the said grantee and his heirs, successors and assigns forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 17<sup>th</sup> day of October, 1968.

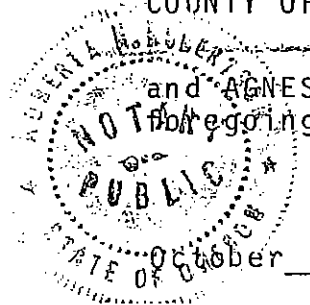
William A. Johnson  
Agnes R. Johnson

STATE OF OREGON }  
COUNTY OF LANE } ss

Personally appeared the above named WILLIAM A. JOHNSON and AGNES R. JOHNSON, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Deberta W. Tolbertson  
Notary Public for Oregon



October 17, 1968.

My Commission expires: 11/10/70

42245

*Out*

*45114 Johnson*

*45114 Johnson*

State of Oregon,  
County of Lane—ss.

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

1968 OCT 17 AM 11 46 7

Reel *412-K*

Lane County OFFICIAL Records.

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



By *Ina Randolph*  
Deputy  
C29-083-05

*Quarles* ATTORNEY AT LAW  
119 1/2 OLIVE STREET  
EUCENE, OREGON 97401

*W. C. Johnson*  
*RT 3, Box 505*

~~60027~~

BARGAIN & SALE DEED

KNOW ALL MEN BY THESE PRESENTS, That we, WILLIAM A. JOHNSON and AGNES R. JOHNSON, husband and wife, owners of an undivided one-third interest in the hereinafter described property, there being no consideration for this transfer, do hereby bargain, sell and convey unto DONALD W. JOHNSON all of our right, title and interest remaining in the grantors in and to the following described real estate, to-wit:

Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 21 of Township 18 South, Range 4 West of the Willamette Meridian, and running thence North 16.72 chains to the center of a vacated County Road; thence East along the center line of the said vacated road 34.69 chains to the center of the Bailey Hill Road; thence South 37°49' West along the center of the Bailey Hill Road, 21.17 chains to the center of the County Road; thence West along the center of the County Road, 21.71 chains to the place of beginning, containing 47.14 acres, more or less, in Lane County, Oregon.

To Have and to Hold the same unto the said grantee his heirs, successors and assigns forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 17th day of April, 1969.

William A. Johnson  
Agnes R. Johnson

STATE OF OREGON )  
COUNTY OF LANE )ss

Personally appeared the above named WILLIAM A. JOHNSON and AGNES R. JOHNSON, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Roberta A. Robertson  
Notary Public for Oregon  
My Commission expires: 2/16/70

17th, 1969.





60927

45114 Johnson

45114 Johnson

State of Oregon,  
County of Lane—ss.

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

1959 APR 17 AM 10 00 7

Reel 432 R

Lane County OFFICIAL Records.

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

By *Ina Randolph*  
Deputy

C29-083-05

~~WINDSOR CALKINS  
ATTORNEY AT LAW  
1193 OLIVE STREET~~

~~EUGENE OREGON 97401~~  
Return to:

Wm. A. Johnson  
Route 3, Box 545

1967



KNOW ALL MEN BY THESE PRESENTS, That DONALD W. JOHNSON (hereinafter called the grantor), the spouse of the grantee hereinafter named, for the consideration hereinafter stated, has bargained and sold and by these presents does grant, bargain, sell and convey unto BEVERLY A. JOHNSON (herein called the grantee), an undivided one-half of the following described real property situate in Lane County, Oregon, to-wit:

Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 21 of Township 18 South, Range 4 West of the Willamette Meridian, and running thence North 16.72 chains to the center of a vacated County Road; thence East along the center line of the said vacated road 34.69 chains to the center of the Bailey Hill Road; thence South 37° 49' West along the center of the Bailey Hill Road, 21.17 chains to the center of the County Road; thence West along the center of the County Road, 21.71 chains to the place of beginning, containing 47.14 acres, more or less, in Lane County, Oregon.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD said undivided one-half of said real property, unto the said grantee forever.

The above named grantor retains a like undivided one-half of said real property and it is the intent and purpose of this instrument to create and there hereby is created an estate in entirety between husband and wife as to said real property.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ no dollars

However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which) the whole

WITNESS grantor's hand this 6th day of October, 1969

Donald W. Johnson

Donald W. Johnson

STATE OF OREGON, County of Josephine ss. October 6, 1969

Personally appeared the above named Donald W. Johnson

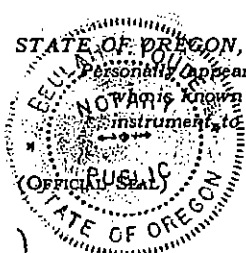
whom is known to me to be the spouse of the grantee in the above deed and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:

Beverly T. Youde

Notary Public for Oregon

My commission expires: Oct. 30, 1969



NOTE—The sentence between the symbols ( ), if not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by the 1967 Special Session.

DEED

CREATING ESTATE IN ENTIRETY

TO

AFTER RECORDING RETURN TO

Donald W. Johnson  
210 S. Marble Drive  
Grant Pass, Oregon

100 Deed 83868  
No. 5114 Johnson

5114 Johnson

STATE OF OREGON,

State of Oregon,  
County of Lane—ss.

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

1969 OCT 10 AM 11 30 .6

Reel 455 R

Lane County OFFICIAL Records.

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

By: [Signature] Deputy

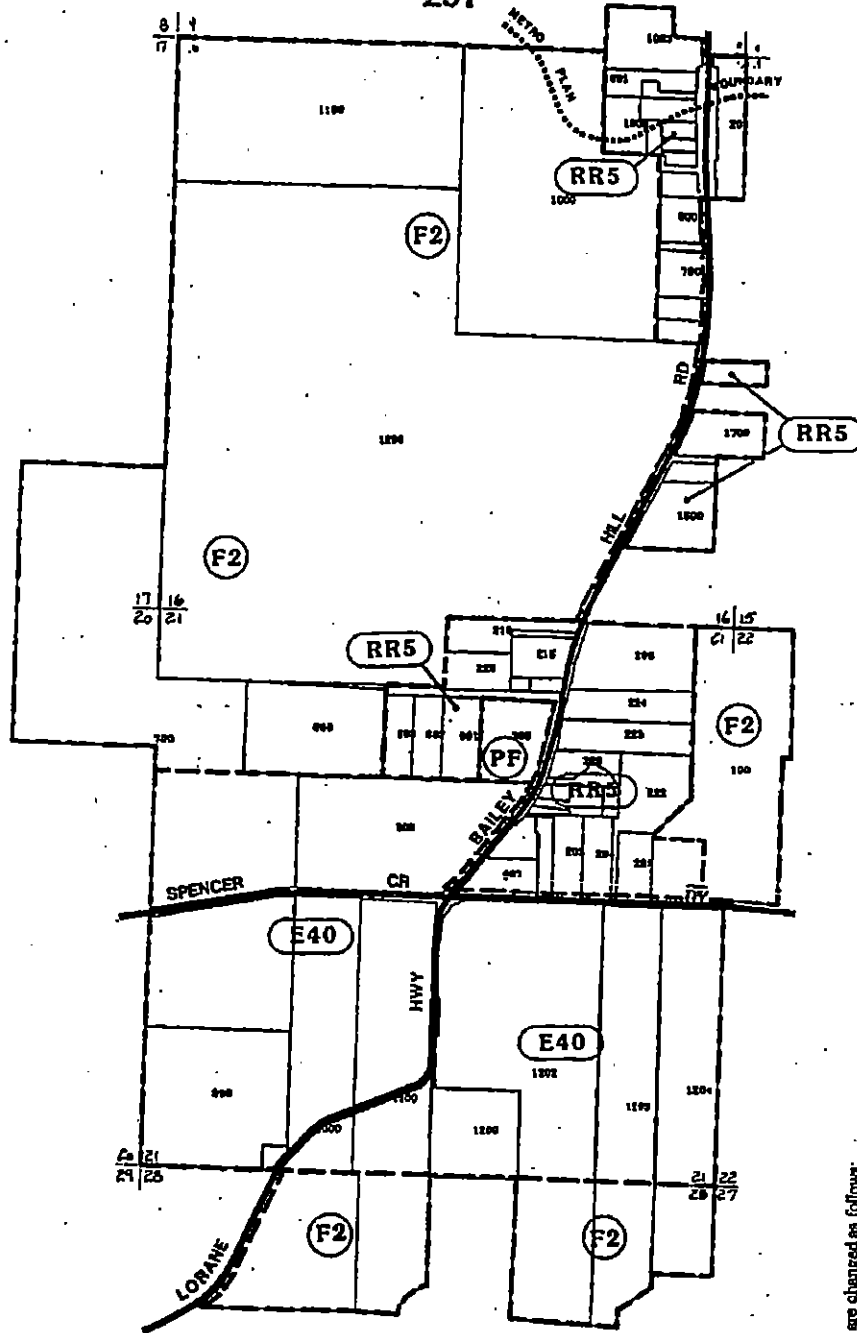
C29-083-05

ss. s- he pe of

Handwritten initials at the bottom right.

285

309



299

The zones on this map are changed as follows:  
 From: RG, RA To: RR2  
 From: CR, C1, C2, & C3 To: RC Rural Commercial  
 From: M1, M2, & M3 To: R1 Rural Industrial  
 From: PF To: RPF Rural Public Facility  
 From: PR To: RPR Rural Park & Recreation



The RR zones on this map are changed as follows:  
 FROM: RR LC 16.231 TO: RR LC 16.290  
 The RR zone parcel size remains the same.

lane county



OFFICIAL ZONING MAP

PLOT# 298

Township Range Section  
 18 04 16

18 04 21

ORIGINAL ORD. # \_\_\_\_\_ PA 884 DATE 2/29/1984 FILE # \_\_\_\_\_

REVISION # \_\_\_\_\_ ORD. # \_\_\_\_\_

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 884

) IN THE MATTER OF APPLYING THE RURAL  
) COMPREHENSIVE PLAN DESIGNATIONS AND  
) RURAL COMPREHENSIVE PLAN ZONES TO  
) RURAL LANE COUNTY OUTSIDE THE  
) METROPOLITAN AREA GENERAL PLAN  
) BOUNDARY, AND OUTSIDE ALL URBAN  
) GROWTH BOUNDARIES, REPEALING PRIOR  
) ZONING DISTRICTS AND PLAN DESIGNA-  
) TIONS, AND ADOPTING A SAVINGS AND  
) SEVERABILITY CLAUSE

WHEREAS, the plan designations and zoning districts applicable to rural Lane County are not in full compliance with the Statewide Goals, and

WHEREAS, the Oregon State Land Conservation and Development Commission has granted Lane County an extension of time to revise its designations and zones to bring them into conformity with the Statewide Planning Goals, and

WHEREAS, the Board of County Commissioners has received from the Lane County Planning Commission and the West Lane County Planning Commission recommended application of the new plan designations and zones, and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action, now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY ORDAINS AS FOLLOWS:

1. The Plan Designation and Zones as set forth on the attached maps (Exhibit "A") are hereby applied to Rural Lane County outside the Metropolitan Area General Plan Boundary and outside all Urban Growth Boundaries as modified by the attached change request summary, Board of County Commissioners action column (Appendix "B").

2. With exception of the following:

- (a) Rural Transportation Plan (Adopted by Ordinance No. 3-80).
- (b) Willamette Greenway Plan (Adopted by Ordinance No. 783).
- (c) Parks and Open Space Plan (Adopted by Ordinance No. 850).
- (d) Solid Waste Management Plan (Adopted by Ordinance No. 771 and subsequent amendment).
- (e) Coastal Resources Management Plan (Adopted by Ordinance No. 803) (Amended by Ordinance Nos. 862 and 876).

- (f) Siuslaw River Dredged Material Disposal Plan (Adopted by Ordinance No. 749) (Amended by Ordinance Nos. 861 and 877).
- (g) Housing Plan (Adopted by Ordinance 1-78).

the prior Plan and Zone designations are repealed. However, the prior Plan designations and zoning districts remain in full force and effect to authorize prosecution of persons who violate their provisions prior to the effective date of this Ordinance.

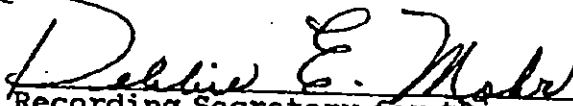
3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

4. The exceptions to Statewide Goals 3 and 4 are set forth in the attached Exhibit "B".

While not part of this Ordinance, the Board of County Commissioners adopt the Legislative Findings set forth in attached Exhibit "C" in support of this action.

Enacted this 29<sup>th</sup> day of February, 1984.

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

  
\_\_\_\_\_  
Recording Secretary for this  
Meeting of the Board

ORDINANCE NO. PA 884 - LEGISLATIVE FINDINGS

Ordinance No. PA 884 is the implementation of the policies adopted in Ordinance No. PA 883. The support documents and Findings adopted in that Ordinance are, therefore, adopted as if fully set forth herein.

Major map changes, based upon a nonresource designation are supported by prior quasi-judicial or current Findings set forth on attached Exhibit "D".

The Diagrams and Zones reflect only one "need" exception arising from a prior quasi-judicial application. We, therefore, readopt the need exception set forth on attached Exhibit "E". Note that pursuant to CPR summary, the new designation is Destination Resort, rather than Commercial Zones. However, the exception to the Goal remains valid. The site review conditions are also readopted.

In addition, map changes occurring on the basis of a Marginal Lands designation are explained in the attached Exhibit "F".

All other changes to the maps from the original staff recommendation are supported by changes to the developed and committed exception and the information and Findings submitted with CPR requests. Because the amount of supporting information is very extensive, it is not possible to set out new Findings for each approval, nor is such analysis appropriate for a legislative Ordinance. However, the basis for the approval exists in the written attachments to the CPR's, public testimony and deliberation. This information is available on request.

**LEGEND**

(AO)

**ZONES**

Airport Operation

**COMMERCIAL ZONES**

(C1)

Limited Commercial

(C2)

Neighborhood Commercial

(C3)

Commercial

(CR)

Rural Commercial

**AGRICULTURAL ZONES**

(E25)

Exclusive Farm Use 25

(E30)

Exclusive Farm Use 30

(E40)

Exclusive Farm Use 40

(E60)

Exclusive Farm Use 60

**FOREST ZONES**

(F1)

Nonimpacted Forest Lands

(F2)

Impacted Forest Lands

**INDUSTRIAL ZONES**

(M2)

Light Industrial

(M3)

Heavy Industrial

**RESOURCE ZONES**

(NR)

Natural Resource

(PF)

Public Facility

(PR)

Park & Recreation

(QM)

Quarry & Mining

(SG)

Sand & Gravel

/CP

/ Controlled Processing

**RESIDENTIAL ZONES**

(RA)

Suburban Residential

(RG)

Garden Apartment

(RR1)

Rural Residential

(RR2)

Rural Residential

(RR5)

Rural Residential

(RR10)

Rural Residential

/SR

/ Site Review

**LEGEND**

(A)

Agricultural Land

(F)

Forest Land

(R)

Rural Land

COMMUNITY

Community

(PF)

Public Facility

(PR)

Park & Recreation

(C)

Commercial

(I)

Industrial

(+)

Airport

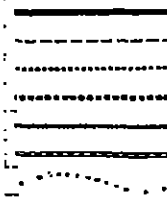
(NR:M)

Natural Resource : Mineral

(NRCA)

Natural Resource : Conservation Area

Area Subject To Coastal Resources Management Plan



Roadway

Railroad

City Limits

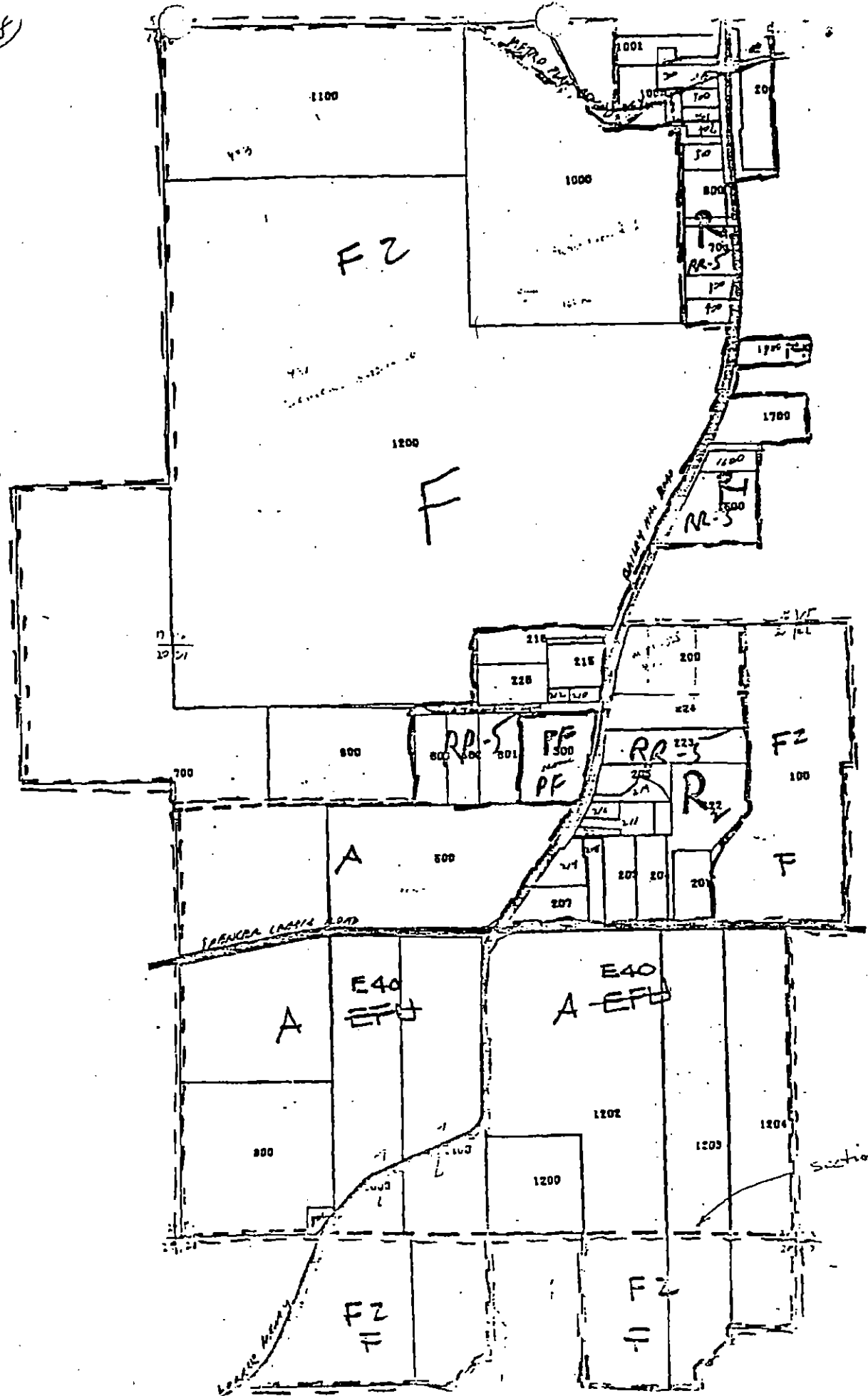
Metro Plan Boundary

Urban Growth Boundary

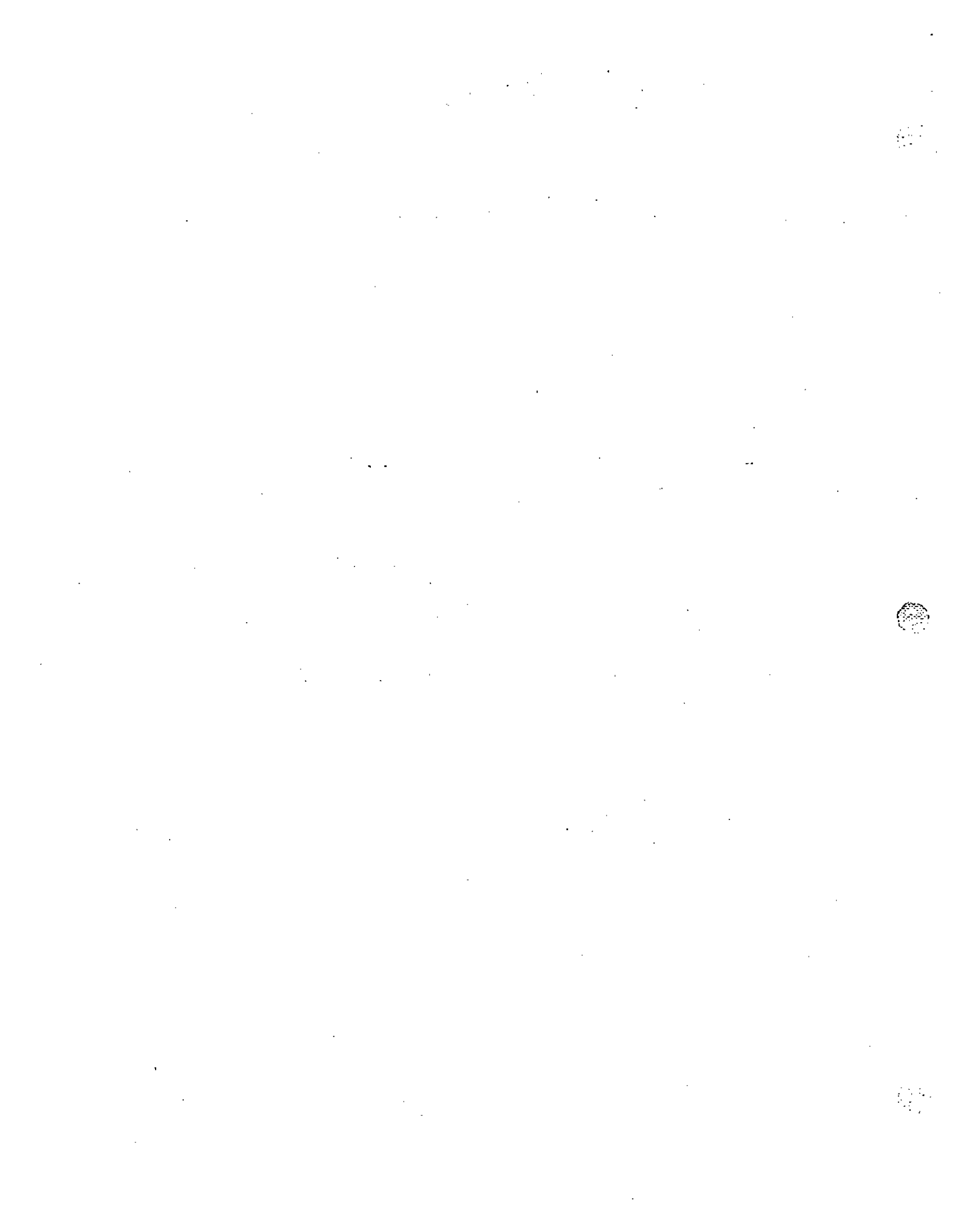
County Line

Willamette River Greenway

(298)







THURSDAY THE 22ND DAY OF JUNE 1949

IN THE COURT OF THE STATE OF OREGON FOR LANE COUNTY  
Sitting in and for the Transaction of County Business

In the Matter of an Ordinance to Establish )  
Zoning and Land Use Code to be used in. ( ORDER  
Establishing Land Use Districts )

Zoning and Land Use  
Regulation Ordinance

Pursuant to the authority vested in the County Court by Chapter 537 Oregon Laws 1947 and by vote of the people on November 2, 1948, upon the question "Shall the County Court be authorized to enact zoning and land use regulations?" the following ordinance is hereby enacted:

AN ORDINANCE OF THE COUNTY OF LANE, STATE OF OREGON, ADOPTING A PRECISE LAND USE MASTER PLAN TO REGULATE AND RESTRICT THE LOCATION AND USE OF BUILDINGS AND THE USE OF LAND IN THE UNINCORPORATED TERRITORY OF LANE COUNTY BY DIVIDING THE COUNTY INTO LAND USE DISTRICTS TO LIMIT THE HEIGHT AND BULK OF FUTURE BUILDINGS; TO PROVIDE FOR SETBACK LINES, SIZE OF YARDS, AND OTHER OPEN SPACES; TO ESTABLISH MINIMUM LOT SIZES; TO PROVIDE FOR THE PROTECTION OF FUTURE COURTESY ROADS AND THE WIDENING OF CERTAIN EXISTING ROADS; TO PROVIDE FOR AUTOMOBILE PARKING FACILITIES, TO PROVIDE FOR THE ENFORCEMENT, ADJUSTMENT, AND AMENDMENT THEREOF; AND TO PRESCRIBE PENALTIES FOR THIS VIOLATION IN THE COUNTY OF LANE, STATE OF OREGON.

THE COUNTY COURT OF THE COUNTY OF LANE, STATE OF OREGON, DOES ORDAIN AS FOLLOWS:

SECTION I. ADOPTION OF ZONING PLAN

A. There is hereby adopted a zoning plan for a portion of the County of Lane, State of Oregon.

B. This ordinance shall consist of the text hereof and maps entitled "Lane County Zoning Maps," and identified by the signatures and signatures of the County Judge, the chairman of the County Planning Commission, and the County Clerk.

C. This ordinance is adopted under the provisions of the State Enabling Act establishing County Planning and Zoning, Chapter 537 Oregon Laws 1947, approved by the Governor of the State of Oregon, April 22, 1947.

SECTION II. TITLE

This ordinance shall be known as the "Zoning Plan of the County of Lane, State of Oregon."

**FILED**

JUN 2 1949

HARRY L. CHASE  
County Clerk

SECTION III. PURPOSE

The purpose of this Ordinance is to establish for the County of Lane, State of Oregon, a comprehensive zoning plan designed to regulate and restrict the location and use of buildings, structures, and land for recreational, educational, residential, commercial and industrial purposes; to regulate and limit the height, number of stories, and amount of lot coverage of buildings and other structures hereafter erected or altered; to establish minimum widths and areas for the subdivision or resubdivision of lots; to provide for the protection of future primary roads and the widening of certain existing roads; and to regulate and establish minimum requirements for private garages or off-street parking facilities according to character and type of building or structure.

The controls as set forth in this Ordinance are deemed necessary in order to encourage the most appropriate use of the land; to protect the character and the social and economic stability of residential, commercial, industrial, and other areas within the County, and to assure the orderly development of such areas; and to obviate the menace to the public safety resulting from the improper location of buildings and the uses thereof, and the establishment of land uses along primary highways in such manner as to cause interference with existing or prospective traffic movement on said highways.

SECTION IV. DEFINITIONS

A. For the purpose of this Ordinance certain words, terms, and phrases are defined as follows:

B. Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this Ordinance" is used hereafter it shall be deemed to include all amendments thereto hereafter from time to time be adopted. The word "County" as used herein shall mean the County of Lane, State of Oregon; the word "Planning Commission" shall mean the County Planning Commission of the County of Lane, State of Oregon; the word "boundary" shall mean the boundary of the County of Lane, State of Oregon, or the boundary of any incorporated municipality within said County.

ACCESSORY BUILDING shall mean any subordinate building or portion of a main building, the use of which is incidental, appropriate, and subordinate to that of the main building.

ACCESSORY USE shall mean a use incidental, appropriate, and subordinate to the main use of a lot or building.

AGRICULTURE. The tilling of the soil, the raising of crops, horticulture, small livestock farming, dairying and/or animal husbandry on tracts of land of five acres or less should be for the purpose of this ordinance, presumed to be non-agriculture, non-grazing, non-horticulture and not used for the growing of timber, unless proved to be otherwise.

**ALLEY:** A public way not over thirty (30) feet wide providing a secondary means of access to private property.

**ALTER:** To change any of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

**APARTMENT HOUSE:** A building or portion thereof used or intended to be used as the home of three (3) or more families or households living independently of each other.

**AUTO COURT:** A combination or group of two (2) or more detached or semi-detached permanent dwellings or dwelling units occupying a building site in one ownership owned and used to furnish transient living accommodations.

**AUTOMOBILE TRAILER CAMP:** A parcel of land used for the accommodation of two (2) or more automobile trailers occupied as living or sleeping quarters.

**AUTOMOBILE and/or TRAILER SALES AREA:** Uncovered premises used for display, sale, or rental of new or used automobiles or trailers.

**AUTO WRECKING YARDS (JUNK YARDS):** Premises used for the storage or sale of used automobile parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, machinery, or parts thereof.

**BASEMENT:** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**BLOCK:** That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or nearest intersecting or intercepting streets and railroad right-of-way, un subdivided acreage, water course, or body of water.

**BOARDING HOUSE:** A building or portion thereof having only one kitchen and used for the purpose of providing meals and/or lodging for pay or compensation of any kind to more than three persons other than members of a family occupying such a dwelling.

**BUILDINGS:** The terms "building" and "structure" shall be synonymous and shall mean that which is framed, erected, constructed, or placed to stand temporarily or permanently on a parcel of land. Driveways or walks not more than six (6) inches higher than the ground on which they rest shall not be considered buildings.

**BUILDING HEIGHT:** The vertical distance from the average finished grade at the front of the building to the highest point of a building, exclusive of chimneys.

27 PAGE 334

**BUILDING SITE:** The ground area of a building or buildings together with all open spaces required by this Ordinance, and which site has its principal frontage upon a public or private street.

**CAMP GROUNDS:** Premises in one ownership where persons camp or live in any manner other than in a permanent building constructed entirely of wood or more lasting materials, excepting automobile trailer camps as defined herein.

**CEMETERY:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**CHURCH:** A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**CLUB** shall mean any organization, group, or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests, but shall not include any organization, group, or association, the chief activity of which is to render a service customarily carried on as a business.

**COMMISSION** shall mean the Lane County Planning Commission.

**COURT:** An open unoccupied space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building.

**COURT APARTMENTS:** One or more multiple dwellings arranged around two (2) or three (3) sides of a court which opens onto a street.

**CURB LEVEL:** The level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the County Engineer shall establish such curb level for the purpose of this article.

**DISTRICT:** A portion of the unincorporated territory of the County within which certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited, or within which certain yards and other open spaces are required, or within which certain lot areas are established, or within which certain height limits are required for buildings, or within which certain other regulations are applied, all as set forth and specified in this Ordinance.



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**DWELLING:** A building or portion thereof, which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one (1) or more families.

**DWELLING, MULTIPLE:** A building designed for or occupied by three (3) or more families living independently of each other.

**DWELLING, SINGLE-FAMILY:** A detached building designed for and occupied exclusively by one (1) related family. Not more than three (3) people in addition to the related family may be regularly lodged or furnished meals therein. The building may have only one (1) kitchen.

**DWELLING, TWO-FAMILY (DUPEX):** A building designed and used exclusively for occupancy by two (2) families living independently of each other.

**FAMILY:** An individual, or two (2) or more persons related by blood or marriage, or a group of not more than (5) persons (excluding servants) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.

**FRATERNITY, SORORITY, STUDENT HOME:** A residential building in which living accommodations are furnished to college students.

**GARAGE, PRIVATE:** A detached accessory building or portion of a main building for the parking of automobiles of the occupants of the premises.

**GARAGE, PUBLIC:** A building other than a private garage used for the cars, repair, parking, or storage of automobiles.

**GRAZING:** The use of land for pasture of horses, cattle, sheep, goats, and/or other domestic herbivorous animals alone or in conjunction with agricultural pursuits. Tracts of land of five acres or less should be, for the purpose of this ordinance, presumed to be non-grazing, unless proved to be otherwise.

**GUEST HOUSE, SERVANT'S QUARTERS:** An accessory building without kitchen or cooking facilities and occupied solely by non-paying guests or by servants employed on the premises.

**HALF STORY** means that part of any building wholly or partly above the main floor and not occupying more than two-thirds of the floor area immediately below it.

**HEIGHT OF BUILDING:** See Building Height.

**HOME OCCUPATION:** An occupation carried on by an occupant of the dwelling which is incidental or secondary to residential use, provided it does not change the character of the dwelling and no assistants are employed.

**HORTICULTURE:** See Agriculture.

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**HOTEL, LODGING HOUSE, or ROOMING HOUSE:** A building or portion thereof containing four (4) or more sleeping rooms customarily occupied as care or less temporary abiding places for individuals.

**INTERIOR LOT:** A lot, other than a corner lot, having frontage on only one street.

**KENNEL:** Any lot or premise on which three (3) or more dogs or cats over the age of four (4) months are kept.

**KEY LOT:** A lot the side of which abuts the rear line of one or more adjacent lots.

**KITCHEN:** Any room, all or any part of which is designed, built, equipped, used or intended to be used for the preparation of food and/or the washing of dishes.

**LOADING SPACE:** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

**LOT:** Land occupied or to be occupied by a building and its accessory buildings, including such open spaces as are required under this Ordinance and having frontage upon a street.

**LOT AREA:** The total area measured on a horizontal plane within the lot lines of a lot.

**LOT DEPTH:** The horizontal distance between the front and rear lot lines measured in the main direction of the side lot lines.

**LOT LINE, FRONT:** The private property line contiguous with the public street line or place. For corner lots the front lot line shall be the narrowest street frontage or as shown on the official plat of the property.

**LOT LINE, REAR:** A lot line which is opposite and most distant from the front lot line. In the case of a triangular shaped lot, the rear lot line for building purposes shall be assumed to be the longest (10) feet in length within the lot parallel to and at the maximum distance from the front lot line.

**LOT LINE, SIDE:** Any lot line which is not a front or rear lot line.

**LOT WIDTH:** The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**NONCONFORMING USE:** A building, structure, or land use which lawfully existed at the time this Ordinance became effective, but does not conform to the use regulations, setbacks, height, lot coverage, or other provisions hereinafter established by this Ordinance and which has not been classified by this Ordinance.

**OUTDOOR ADVERTISING SIGN AND STRUCTURE:** Any card, cloth, paper, metal, wood, plastic, or painted sign of any kind or character whatsoever placed for outdoor advertising purposes on the ground, or on any tree, wall, rock, post, fence, building, or structure. The term "boards" as used in this definition of "Outdoor Advertising Sign" and "Outdoor Advertising Structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing, or making visible in any manner whatsoever.

**PARKING AREA, AUTO OBILE:** Space within a public parking area, or a building, exclusive of driveways, ramps, columns, office, and work areas, for the temporary parking or storage of one (1) automobile.

**PARKING AREA, PUBLIC:** Privately or publicly owned property, other than streets or alleys, used for the parking of four (4) or more automobiles and open for public use, whether free, for accommodation of clients or customers, or for hourly, daily, or monthly rental fees.

**SITE, RESIDENTIAL:** An area of more or less intensive development, surrounding a dwelling, not less than sixty (60) feet wide nor less than six-thousand (6,000) square feet in area, and comparable to a normal city lot.

**STABLE, PRIVATE:** An accessory building in which horses are kept for private use and not for remuneration, hire, or sale.

**STABLE, PUBLIC:** A building in which horses are kept for remuneration, hire, or sale.

**STORY:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. (See Basement).

**STREET:** A public thoroughfare, avenue, road, highway, boulevard, parkway, way, drive, lane, court, or private easement providing the public a way for ingress and egress from the property abutting thereon.

**STRUCTURAL ALTERATIONS:** See Alter.

**STRUCTURE:** Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

**TENDER GROVING:** The growing of trees for commercial purposes.

**TOURIST COURT:** See Auto Court.

**TRAILER CAMPS:** See Automobile Trailer Camps.



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USE: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

VISION CLEARANCE: A triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, the space being defined by a line across the corner the ends of which are on the street or alley right-of-way lines an equal and specified distance from the corner and containing no planting, walls, structures, or temporary or permanent obstruction exceeding three and one-half (3½) feet in height above the curb level.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD, FRONT: A yard between the front line of the building (exclusive of steps) and the front property line.

YARD, REAR: An open unoccupied space on the same lot with a building, between the rear line of the building (exclusive of steps, porches, and accessory buildings) and the rear line of the lot.

YARD, SIDE: An open unoccupied space on the same lot with a building, between the side wall line of the building and the side line of the lot.

SECTION V. DISTRICTS

In order to carry out the purpose and provisions of this Ordinance, certain areas shown on the maps entitled, "Lane County Zoning Maps," being a part of this Zoning Ordinance, are hereby classified in one of the following districts. In case any streets or alleys as shown on the maps have been or are hereafter vacated, the land shall take the district classification of the property to which it reverts. Public land acquired prior to the adoption of this ordinance shall be limited to the use for which the land was acquired and, on approval established for the highest abutting district. Development of public land acquired subsequent to the passage of this Ordinance shall conform to the district in which it is located. In the event public land is sold for private development, it shall automatically assume the classification of the highest abutting district.

- AG-1 AGRICULTURE, GRAZING, TIMBER-RAISING DISTRICT
- PR PUBLIC RESERVE DISTRICT
- RA SUBURBAN DISTRICT
- R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT
- R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT
- C-1 LIMITED COMMERCIAL DISTRICT
- C-2 COMMERCIAL DISTRICT
- I-1 LIMITED INDUSTRIAL DISTRICT
- I-2 LIGHT INDUSTRIAL DISTRICT
- I-3 HEAVY INDUSTRIAL DISTRICT

SECTION VI AGT AGRICULTURE, GRAZING, TIMBER-RAISING DISTRICT

The following regulations shall apply to AGT Agricultural, Grazing, Timber-Raising District:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. Agriculture, grazing, and/or timber raising.
2. Dwelling or dwellings for owners, operators, and/or help required to carry out a use as specified in A-1 above.
3. Accessory buildings normally required in connection with a use as specified in A-1 above.

B. REGULATIONS

1. Regulations hereinafter prescribed shall not apply to conforming uses within an AGT district.
2. Nonconforming uses established at the time this Ordinance became effective shall be subject to the regulations established by this Ordinance.

SECTION VII PR PUBLIC RESERVE DISTRICT

The following regulations shall apply in the PR Public Reserve District:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. A dwelling arranged, intended, and designated exclusively for one family, and accessory buildings such as garages, store rooms, wood sheds, laundries, greenhouses, animal shelters, or similar and related accessory uses for which a special building permit has been issued; provided, however, that there shall not be more than three (3) buildings allowed as accessory to any single-family dwelling.
2. Hunting and fishing lodges, dude ranches, resort hotels.
3. Public and semi-public buildings, such as:
  - a. Schools.
  - b. Libraries, art galleries, and museums.
  - c. Hospitals, sanitariums, and hot baths, rest homes.
  - d. Institutions for education, philanthropic, or eleemosynary uses.
  - e. Private clubs, fraternities, and lodges.
  - f. Parks, playgrounds, winter sports, golf courses, and like recreational uses.
  - g. Governmental buildings and uses (Federal, State, County, Municipal, or other governmental divisions).

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B. PARKING SPACE REQUIRED

1. Residential use. At least one (1) permanently reserved parking space, or private garage, shall be provided for each single-family dwelling.

2. Lodges, dude ranches, and resort hotels shall provide and maintain sufficient off-street parking to adequately care for the automobiles of owners, employees, and patrons, with ingress and egress to the highway properly controlled to give reasonable protection to the automotive traffic.

3. Public and semi-public buildings shall provide and maintain a minimum of one (1) off-street parking space for each one-thousand (1,000) square feet of building floor area.

C. SIGNS

Signs and name plates may be installed as follows:

1. One name plate not exceeding six (6) square feet in area for each dwelling unit, indicating the name of the home site or the name of the occupant.

2. One (1) sign not exceeding thirty-five (35) square feet in area for buildings other than dwellings; provided that such sign shall be attached to and parallel with the front wall of the building.

3. One (1) sign not exceeding six (6) square feet in area, appertaining to the sale or rent of property.

No name plates or advertising signs of any other character shall be permitted.

D. HEIGHT

No building or structure nor the enlargement of any building or structure shall be hereafter erected to exceed two and one-half (2½) stories or more than thirty-five (35) feet in height.

E. AREA

1. Size of lot

A. Residential lots and lots for governmental buildings shall have a minimum average width of eighty (80) feet and a minimum area of eight-thousand (8,000) square feet, except that where a lot has an average width of less than eighty (80) feet and an area of less than eight-thousand (8,000) square feet at the time this Ordinance became effective, such lot may be occupied by a single-family residence.

B. Lots for other uses as specified under A-2 and -3 shall have a minimum width of two-hundred (200) feet and a minimum area of one (1) acre.

2. Percent of coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the lot area.

**BUILDING SETBACK REQUIREMENTS**

**1. Front Yard**

A. No building shall be constructed closer than seventy-five (75) feet to the center line of a State Highway, nor closer than (10) feet to the highway right-of-way.

B. Front yard for residences on streets (other than state highways) shall be a minimum of twenty-five (25) feet.

**2. Side Yard**

On interior lots there shall be a side yard on each side of the main building of not less than ten (10) feet.

**VISION CLEARANCE**

1. Vision clearance for corner lots shall be a minimum of fifteen (15) feet.

2. Vision clearance for alley-street intersections shall be a minimum of seven and one-half (7 1/2) feet.

**SECTION VIII RA SUBURBAN DISTRICT**

The following regulations shall apply in the RA Suburban District:

**USE**

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. A single family dwelling or duplex provided, however, that a lot of less than six thousand (6,000) square feet shall be limited to a single family dwelling.

2. Accessory buildings on the rear half of the building site used as garages, store rooms, wood sheds, work shops, laundries, playhouses, greenhouses, poultry houses, animal shelters, or similar and related accessory uses for which a special permit has been issued; provided, however, that there shall be not more than four (4) buildings allowed as accessory to any single family dwelling.

3. Parks, playgrounds, golf courses, or community centers owned and operated by a governmental agency, or private commercial playgrounds for which a special permit has been issued.

4. Hospitals, provided that any buildings used for hospital purposes shall provide and maintain setbacks from side and rear property lines, except on the street side of corner lots, or at least fifty (50) feet; provided, however, alleys contiguous to or within the property being used for hospital purposes may be included in the required setback.



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5. Schools (elementary, junior high, and high), providing setbacks are established as given in A-4 above,

6. Privately operated kindergartens or day nurseries, provided the residential character of the building is maintained.

Churches provided setbacks are maintained from side and rear property lines, except on the street side of corner lots of at least 20 feet, provided, however, alleys contiguous to or within the property being used may be included in the required setback. A parsonage (free-standing or attached to a church by a vestibule) shall be considered as a residential structure.

8. Public buildings such as fire stations, libraries, sub-stations, pump stations, and community buildings; provided that side and rear yards shall be twenty (20) percent of the property width, but not less than ten (10) feet nor necessarily more than thirty (30) feet.

9. Crop cultivation or farm and truck gardens, including plant nurseries.

10. The hatching and raising of poultry and fowl, the raising of rabbits, bees, and the like, and the keeping of domestic animals except pigs, as an incidental use; provided that:

a. Cows, horses, sheep or goats cannot be kept on lots having an area of less than twenty thousand (20,000) square feet, and under no circumstances shall they be kept for commercial purposes. The total number of all such animals (other than their young under the age of six (6) months) allowed on a lot shall be limited to the square footage of the lot divided by the total minimum areas required for each animal as listed below:

Horses . . . . .	10,000 sq ft, area
Cow . . . . .	10,000 sq ft, area
Goat or sheep, . . . . .	5,000 sq ft, area

b. The number of chickens, fowl, and/or rabbits (over the age of six (6) months) shall not exceed one (1) for each five-hundred (500) square feet of property; provided that no roosters over the age of six (6) months shall be kept. The number of young chickens, fowl, and/or rabbits (under the age of six (6) months) allowed on the property at any one time shall not exceed three (3) times the allowable number of chickens, fowl, and/or rabbits over the age of six (6) months.

c. The number of colonies of bees allowed on a lot shall be limited to one colony for each one-thousand (1,000) square feet of lot area.

d. Animal runs on barns, chicken or fowl pens, and colonies of bees shall be located on the rear half of the property but not closer than seventy (70) feet from the front property line nor closer than fifty (50) feet from any residence.

e. Animals, chickens, and/or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times. All animal or poultry food shall be stored in metal or other rodent-proof receptacles.

11. When an RA district is reclassified to another district as hereinafter listed, all those land uses granted under Section VIII. A. paragraph 10, a. through e. (above), shall be completely discontinued within a period of six (6) months from the date of reclassification.

12. Transitional use. Transitional uses shall be permitted in the RA zone where the side of a lot abuts upon a commercial or industrial zone; provided that such transitional use does not extend more than sixty-five (65) feet from the boundary of the less restricted zone which it adjoins as follows:

a. Multiple-family dwellings with the same area requirements as the R-2 zone.

b. Home occupation such as dressmaker, or lawyer, notary public, public accountant, artist, teacher, musician, principal office of a physician or dentist, or the practice of any art or craft of a nature to be conveniently and unobtrusively pursued in a family dwelling; providing the residential character of the dwelling is not changed.

c. Public parking area when located and developed as required under "General Provisions", Section XVI, B-3 (page 29).

d. Outdoor nursery for the growing, sale and display of trees, shrubs and flowers.

B. PARKING SPACE REQUIRED.

There shall be at least one permanently reserved parking space, or private garage on the same lot, or attached to or made a part of the main building. Such parking space shall be not less than eight (8) feet wide and eighteen (18) feet long. The parking space or garage shall be provided at the time of the erection of the main building, and it shall have adequate provisions for ingress and egress by standard size automobiles. For parking space requirements for buildings other than dwellings, see "General Provisions", Section XVI, B-1-b (page 28).

C. SIGNS

Signs and name plates may be installed as follows:

1. One (1) name plate not exceeding six (6) square feet in area for each dwelling unit, indicating the name of the occupant, or the occupation in the case of A-12-b (above).

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- 2. One (1) sign not exceeding twelve (12) square foot in area for buildings other than dwellings.
- 3. One (1) sign not exceeding six (6) square feet appertaining to the sale or rent of property; provided that such sign shall be attached to and parallel with the front wall of the building.
- 4. One (1) sign not exceeding eighteen (18) square feet in area will be allowed on a tract of land or subdivision advertising the sale of the property.

No name plates or advertising signs of any other character shall be permitted.

D. HEIGHT

No building or structure nor the enlargement of any building or structure shall be hereafter erected to exceed two and one-half (2½) stories or more than thirty-five (35) feet in height, except hospitals, public schools, or churches, which may be increased in height to three (3) stories or forty-five (45) feet.

E. AREA

- 1. Size of lot. Residential lots shall have a minimum average width of sixty (60) feet and the minimum lot area per dwelling shall be six-thousand (6,000) square feet, except that where a lot has an average width of less than sixty (60) feet and an area of less than six-thousand (6,000) square feet at the time this Ordinance became effective, such lot may be occupied by any use permitted in this section.
- 2. Percent of coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the lot area.

F. BUILDING SETBACK REQUIREMENTS

- 1. Front Yard. Front yards shall be not less than fifteen (15) feet deep.
- 2. Side Yards. On interior lots and the interior side of corner lots there shall be a side yard on each side of the main building of not less than five (5) feet. On corner building sites no building shall be closer than ten (10) feet.

G. VISION CLEARANCE

- 1. Vision clearance on corner lots shall be a minimum of twenty (20) feet.
- 2. Vision clearance on alley-street intersections shall be a minimum of seven and one-half (7½) feet.

SECTION IX. R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

The following regulations shall apply to R-1 Single-Family Residential District:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. A dwelling arranged, intended, and designated exclusively for one family.
2. A dwelling for two (2) family (Duplex); provided that a minimum of six-thousand (6,000) square feet of lot area shall be required for a two-family dwelling.
3. Accessory buildings on the rear half of the building site used as garages, storerooms, woodsheds, workshops, laundries, playhouses, or similar and related accessory uses for which a special permit has been issued; provided, however, that there shall be not more than two buildings allowed as accessory to any single-family dwelling.
4. Parks, playgrounds, or community centers owned and operated by a governmental agency, or private, non-commercial playgrounds for which a special permit has been issued.
5. Hospitals may be allowed by special permit after public hearing and examination of the location has convinced the Planning Commission that such a structure will not be detrimental to adjacent and surrounding property, and provided that any buildings used for hospital purposes shall provide and maintain setbacks from side and rear property lines (except on the street side of corner lots) of at least fifty (50) feet; provided, however, alleys contiguous to or within the property being used for hospital purposes may be included in the required setback.
6. Schools (elementary, junior high, and high); providing setbacks are established as given in A-5 above.
7. Privately operated kindergartens or day nurseries; providing the residential character of the building is not changed.
8. Churches (except rescue missions or temporary revival) provided setbacks are maintained from side and rear property lines except on the street side of a corner lot, of at least twenty (20) feet provided, however, alleys contiguous to or within the property being used may be included in the required setback. A parsonage (free-standing or attached to a church by a vestibule) shall be considered as a residential structure.
9. Public buildings such as fire stations, libraries, substations, pump stations, and community buildings; provided that side and rear yards shall be twenty (20) percent of the property width, but not less than ten (10) feet nor necessarily more than thirty (30) feet.
10. Crop cultivation or farm and truck gardens.
11. The office of a physician, dentist, minister of religion, or other person authorized by law to practice medicine or healing; provided that: (1) such office is situated in the same dwelling unit as the home of the occupant; (2) such office shall not be used for the



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general practice of medicine, surgery and dentistry, but may be used for consultation and emergency treatment as an adjunct to a principal office; (3) there shall be no assistants employed.

12. Transitional use. Transitional uses shall be permitted in the R-1 zone where the side of a lot abuts upon a commercial or industrial zone; provided, that such transitional use does not extend more than sixty-five (65) feet from the boundary of the less restricted zone which it adjoins as follows:

- a. Multiple family dwellings with the same area requirements as the R-2 zone.
- b. Home occupation such as dressmaker, or lawyer, notary public, public accountant, artist, teacher, musician, principal office of a physician or dentist or the practice of any art or craft of a nature to be conveniently and unobtrusively pursued in a family dwelling; providing the residential character of the dwelling is not changed.
- c. Public parking area when located and developed as required under "General Provisions".
- d. Outdoor nursery for the growing, sale and display of trees, shrubs, and flowers.

B. PARKING SPACE REQUIRED

There shall be at least one (1) permanently reserved parking space, or a private garage on the same lot, or attached to, or made a part of the main building. Such parking space shall be not less than eight (8) feet wide and eighteen (18) feet long. The parking space or garage shall be provided at the time of the erection of the main building, and it shall have adequate provisions for ingress and egress by standard size automobiles. For parking space requirements for buildings other than dwelling, see "General Provisions", Section XVI, B-1-b. (Page-28)

C. SIGNS

Signs and name plates may be installed as follows:

- 1. One (1) name plate not exceeding one and one-half (1½) square feet in area for each dwelling unit, indicating the name of the occupant, or the occupation in the case of A-11-a and A-12-b (above).
- 2. One (1) sign not exceeding twelve (12) square feet in area for buildings other than dwellings.
- 3. One (1) sign not exceeding six (6) square feet appertaining to the sale or rent of property; provided that such sign shall be attached to and parallel with the front wall of the building.
- 4. One (1) sign not exceeding eighteen (18) square feet in area will be allowed on a tract of land or subdivision advertising the sale of the property.

No name plates or advertising signs of any other character shall be permitted.

D. HEIGHT

No building or structure nor the enlargement of any building or structure shall be hereafter erected to exceed two and one-half (2½) stories or more than thirty-five (35) feet in height, except hospitals, public schools, or churches, which may be increased in height to three (3) stories or forty-five (45) feet.

E. AREA

1. Size of lot. Residential lots shall have a minimum average width of sixty (60) feet, and the minimum lot area per dwelling shall be six thousand (6,000) square feet, except that where a lot has an average width of less than sixty (60) feet and an area of less than six thousand (6,000) square feet at the time this Ordinance became effective, such lot may be occupied by any use permitted in this section.

2. Percent of coverage. The main building and accessory buildings located on any building site or lot shall not cover in excess of thirty (30) percent of the lot area.

F. BUILDING SETBACK REQUIREMENTS

1. Front Yard. Front yards shall be not less than fifteen (15) feet deep.

2. Side Yards. On the interior lots there shall be a side yard on each side of the main building of not less than five (5) feet. Accessory buildings located less than seventy (70) feet from the front property line shall conform to the setback established for the main building. On corner building sites no building shall be closer than ten (10) feet to the exterior side line.

G. VISION CLEARANCE

1. Vision clearance for corner lots shall be a minimum of fifteen (15) feet.

2. Vision clearance on alley-street intersections shall be a minimum of seven and one-half (7½) feet.

SECTION IX. R-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

The following regulations shall apply in the R-2 Multiple-Family Residential District:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained, except for the following uses:

1. Any use permitted in the R-1 Single-Family Residential District.
2. Apartment houses.

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3. Boarding and lodging houses.
4. Clubs, lodges and assembly halls (private, non-profit).
5. Court apartments.
6. Fraternity or sorority houses.
7. Group dwellings.
8. Orphanages and charitable institutions.
9. Public or private schools.
10. Public parking areas when developed to conform to the provisions established under "General Provisions", Section XVI, B-3. (Page 28)

11. Transitional use. Transitional uses shall be permitted in the R-2 zone where the side of a lot abuts upon a commercial or industrial zone; provided that such transitional use does not extend more than sixty-five (65) feet from the boundary of the less restricted zone which it adjoins as follows:

- a. Home occupation such as dressmaker, or lawyer, notary public, public accountant, artist, teacher, musician, principal office of a physician or dentist, or the practice of any art or craft of a nature to be conveniently and unobtrusively pursued in a family dwelling; provided the residential character of the dwelling is not changed.
- b. Outdoor nurseries for the growing, sale and display of trees, shrubs and flowers.

**B. PARKING SPACE REQUIRED.**

There shall be at least one (1) permanently reserved parking space on the site, or in a private garage on the same site, or attached to or made a part of the main building, for each dwelling. Such parking or garage space shall be provided at the time of construction of the main building, and additional parking spaces shall be provided when additional living units are added. A parking space shall be not less than eight (8) feet wide and eighteen (18) feet long, and shall have provisions for ingress and egress for standard size automobiles. For parking space requirements for other than dwellings, see "General Provisions", Section XVI, B-1-b. (Page 28)

**C. SIGNS.**

Signs and name plates may be installed as follows:

1. One (1) name plate not exceeding one and one-half (1½) square feet in area for each dwelling unit, indicating the name of the occupant, or the occupation in case of A-11-a above.
2. One (1) lighted identification sign (excluding illuminated signs of flashing or animated type) not exceeding twelve (12) square feet in area for multiple dwellings having five (5) or more dwelling units, and for building other than dwellings.

**D. HEIGHT**

No building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained to exceed three (3) stories or forty-five (45) feet in height.

E. AREA

1. Size of lot. Every lot shall have an average minimum width of sixty (60) feet and a minimum area of six-thousand (6,000) square feet. The minimum lot area per dwelling unit shall be twelve-hundred (1,200) square feet. Fraternities, societies, dormitories, and boarding houses shall have a minimum site area of three-hundred (300) square feet for each occupant thereof. However, where a lot has an average width of less than sixty (60) feet and an area of less than six-thousand (6,000) square feet at the time this Ordinance became effective, such lot may be occupied by any use permitted in this section.

2. Percent of coverage. Not over fifty (50) percent of the area of any building site shall be covered by all buildings located thereon.

F. BUILDING SETBACK REQUIREMENTS

1. Front yard. Front yards in this zone shall be not less than fifteen (15) feet deep.

2. Side Yards. On interior lots there shall be a side yard on each side of the main building of not less than five (5) feet. Accessory buildings located less than seventy (70) feet from the front property line shall conform to the setback established for the main building. On corner building sites no building shall be closer than ten (10) feet to the exterior side line.

G. VISION CLEARANCE

1. Vision clearance for corner lots shall be a minimum of fifteen (15) feet.

2. Vision clearance on alley-street intersections shall be a minimum of seven and one-half (7½) feet.

SECTION XI. C-1 LIMITED COMMERCIAL DISTRICT

The following regulations shall apply to C-1, Limited Commercial Districts:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. Any use permitted in the R-2 Zone.
2. Agricultural supplies and machinery salesrooms.
3. Auto courts constructed and arranged in accordance with plans approved by the Planning Commission.
4. Trailer courts with the same requirements as Auto Courts.
5. Business and professional offices.
6. Clinics.
7. Flower and plant nurseries, provided all incidental equipment and supplies, including fertilizer and empty cans, are kept within a building.
8. Public parking areas developed in accordance with the provisions established under "General Provisions" (VII-B-3) (Page 29)



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9. Service stations; providing greasing and tire repairing are performed completely within an enclosed building.

B. PARKING SPACE REQUIRED

- 1. Parking space requirements for 'R' zones are given under the applicable section.
- 2. Auto courts shall provide at least one (1) garage space of not less than one-hundred and twenty-six (126) square feet net area for each living unit.
- 3. Business and professional offices and nurseries shall provide at least one (1) parking space for each two-thousand (2,000) square feet of lot space or fraction thereof, except that if two or more business or professional offices are located on a single site, a minimum of two (2) parking spaces shall be provided for each office.
- 4. Clinics shall provide at least two (2) parking spaces for each consultation and operating room.

C. SIGNS

Exterior signs shall be limited to two (2) per business establishment and shall be designed as a part of the building.

D. HEIGHT

No building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained to exceed two and one-half (2½) stories or thirty-five (35) feet in height, except apartment houses, which may be constructed to a height of three (3) stories or forty-five (45) feet in height.

E. AREA

1. Size of lot

A. Lots shall have a minimum average width of sixty (60) feet and a minimum area of six-thousand (6,000) square feet, except that where a lot has an average width or less than sixty (60) square feet at the time this Ordinance became effective, such lot may be occupied by any use permitted in this section.

B. Space required for auto courts or trailer courts shall be not less than one-thousand two-hundred (1,200) square feet of lot space per dwelling or sleeping unit.

2. Percent of coverage. The main building or buildings and accessory buildings shall not occupy in excess of sixty (60) percent of the ground area.

F. BUILDING SETBACK REQUIREMENTS.

1. Front yard. Front yards in C-1 zones shall not be less than fifteen (15) feet deep.

2. Side yards. On interior lots there shall be a side yard on each side of the main building of not less than five (5) feet.

Accessory buildings located less than seventy (70) feet from the front property line shall conform to the setback established for the main building. On corner building sites no building shall be closer than ten (10) feet to the exterior side line.

G. VISION CLEARANCE

1. Vision clearance for corner lots shall be fifteen (15) feet.
2. Vision clearance on alley-street intersections shall be seven and one-half (7½) feet.

SECTION XII. C-2 COMMERCIAL DISTRICT

The following regulations shall apply in the C-2 Commercial District.

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. Any use permitted in the R-2 and C-1 districts.
2. Automobile sales agencies.
3. Automobile service stations or garages.
4. Bakery.
5. Banks.
6. Barber shop or beauty parlor.
7. Book or Stationery store.
8. Builders supplies including retail sales of lumber.
9. Catering service.
10. Clothes cleaning agency or pressing establishment. (cleaning of clothes shall not be done in this district.)
11. Clubs or lodges, fraternal and religious associations.
12. Confectionery store.
13. Curios and antiques.
14. Delicatessen store.
15. Department store.
16. Drug store.
17. Dry-cleaning establishment using not more than two (2) clothes cleaning units, neither of which shall have a rated capacity of more than forty (40) pounds, using cleaning fluid which is non-odorous as well as non-explosive and non-inflammable at temperatures below one-hundred thirty-eight and five-tenths degrees Fahrenheit (138.5F).
18. Dry goods or notions store.
19. Feed and seed, and fuel stores.
20. Florist or gift shop.
21. Furniture, household goods and furnishings.
22. Laundry agency.
23. Laundry (self-service).
24. Meat Market.
25. Milliner or custom dressmaking shops.
26. Musical instruments and supplies.
27. Office supplies and equipment.

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28. Outdoor advertising.
29. Paint and wallpaper supplies.
30. Photographer.
31. Places of amusement such as billiard parlors, bowling alleys, theaters, dance halls, and games of skill and science, if conducted wholly within a completely enclosed building.
32. Plumbing supplies.
33. Printing.
34. Public parking areas developed in accordance with provisions established under Section XVI, B-3
35. Restaurants, tea rooms, cafes.
36. Seeds and garden supplies.
37. Service stations, providing greasing and tire repairing are performed completely within an enclosed building.
38. Shoe store or shoe repair shop.
39. Sporting goods.
40. Surgical supplies and equipment.
41. Tailor, clothing, and wearing apparel shops.
42. Telephone and telegraph exchanges.
43. Stores (retail and wholesale) and business uses similar to the above, and normally located in a first-class commercial district; provided that:

- a. Where there is manufacturing, compounding, processing or treatment of products for wholesale, a minimum of 25% of the total floor area shall be used for retail sales.
- b. Use is not objectionable due to odor, dust, smoke, noise, vibration, or appearance.

**B. PARKING SPACE REQUIRED.**

1. Parking space and loading space shall be provided as specified under "General Provisions".
2. Parking space for dwellings shall be in accordance with the requirements for the type of dwelling structure.

**C. AREA**

Percent of coverage. Full coverage is allowable; providing minimum loading space and setbacks have been provided.

**BUILDING SETBACK REQUIREMENTS**

1. Front Yard. Front yards will not be required except where specified setbacks are established for road widening purposes.
2. Side yard. Side yards will not be required, but if side yards are created there shall be a minimum of three (3) feet wide and three (3) feet deep.
3. Rear Yard. No structural improvements except road surfacing will be allowed within ten (10) feet of the center line of the alley.

E. VISION CLEARANCE

1. Vision clearance for corner lots on streets with widths of less than sixty-six (66) feet shall be a minimum of one (1) foot vision clearance for each foot of street width under sixty-six (66) feet; provided that a vision clearance of more than ten (10) feet shall not be required. Said vision clearance shall be from the curb or walk level to a minimum height of eight (8) feet.

SECTION XIII. M-1 LIMITED INDUSTRIAL DISTRICT

The following regulations shall apply in the M-1 Limited Industrial District:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained, except for the following uses:

1. Any use permitted in the R-2 and C-1 Districts.
2. Laboratories.
3. Storage buildings for household goods.
4. Wholesale business salesrooms.
5. The manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, toiletries, soft drinks and food products, except fish, meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
6. Other uses similar to the above and not specifically listed under M-2 or M-3 districts; provided that:

- a. Use is not objectionable due to odor, dust, smoke, noise, vibration, or appearance.
- b. Items manufactured, processed, or produced in this area shall be for wholesale.
- c. Vehicular access to streets and highways shall be limited, and shall meet with the approval of the Planning Commission.

B. PARKING SPACE REQUIRED.

1. Parking space must be provided on or within eight-hundred (800) feet of the site for the automobiles of all personnel employed and operating therefrom.

C. AREA

Percent of coverage. Full coverage is allowable; providing minimum loading space and setbacks have been provided.

D. BUILDING SETBACK REQUIREMENTS.

1. Front yard. Front yards shall be not less than fifteen (15) feet deep.



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2. Side Yards. Side yards will not be required, but if side yards are created, they shall be a minimum of three (3) feet wide and three (3) feet deep.

3. Rear Yard. No structural improvements except road surfacing will be allowed within ten (10) feet of the center line of an existing alley.

E. VISION CLEARANCE

1. Vision clearance for corner lots shall be a minimum of fifteen (15) feet.

2. Vision clearance on alley-street intersections shall be a minimum of seven and one-half (7½) feet.

SECTION XIV. M-2 LIGHT INDUSTRIAL DISTRICT

The following regulations shall apply in the M-2 Light Industrial Districts:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained except for the following uses:

1. Any use permitted in the R-1, C-1, C-2, and M-1 districts.
2. Blacksmith and machine shops.
3. Bottling works.
4. Contractors' equipment storage yards.
5. Draying, freighting, and trucking yard, or terminal
6. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
7. Lumber yards, retail including mill work.
8. Manufacture of pottery.
9. Manufacturing, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, yarns, and paint not employing a boiling process.
10. Plumbing and sheet metal shops.
11. Poultry or rabbit killing incidental to a retail trade on the same premises.
12. Public parking areas developed in accordance with provisions established under "General Provisions".
13. Wholesale business, storage buildings and warehouses.
14. Other uses similar to the above.

B. PARKING SPACE REQUIRED

Parking space must be provided on or within eight-hundred (800) feet of the site for the automobiles of all personnel employed and operating therefrom.

C. AREA

Percent of coverage. Full coverage is allowable, providing minimum parking space, loading space, and setbacks have been provided.

D. BUILDING SETBACK REQUIREMENTS.

- 1. Front yard. No front yard will be required.
- 2. Side yard. Side yards will not be required, but if side yards are created, they shall be a minimum of three (3) feet wide and three (3) feet deep.
- 3. Rear yard. No structural improvements except road surfacing will be allowed within ten (10) feet of the center line of an existing alley.

E. VISION CLEARANCE.

Vision clearance on corner lots on streets with widths of less than sixty-six (66) feet shall be a minimum of one (1) foot vision clearance for each foot of street width under sixty-six (66) feet; provided that a vision clearance of more than ten (10) feet shall not be required. Said vision clearance shall be from curb or walk level to a minimum height of eight (8) feet.

SECTION XV. M-3 HEAVY INDUSTRIAL DISTRICT

The following regulations shall apply in the M-3 Heavy Industrial district:

A. USE

No building, structure, or land shall be used, and no building or structure shall be hereafter erected, structurally altered, enlarged, or maintained, except for the following uses:

- 1. Any use permitted in the M-2 district.
- 2. Abattoir.
- 3. Acetylene gas manufacture or storage.
- 4. Acid manufacture.
- 5. Alcohol manufacture.
- 6. Ammonia bleaching powder or chlorine manufacture.
- 7. Arsenal.
- 8. Asphalt manufacture, refining, or paving mixing plants.
- 9. Automobile wrecking, if completely enclosed by an approved type of painted fence, wall, or hedge.
- 10. Blast furnace or coke oven.
- 11. Boiler works.
- 12. Brick, tile, or terra cotta manufacture.
- 13. Candle manufacture.
- 14. Celluloid or plastic manufacture.
- 15. Chemical manufacture.
- 16. Concrete or cement products manufacture and lime, gypsum or plaster of Paris manufacture.
- 17. Cotton gin or oil mill.

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- 18. Crematory.
- 19. Creosote treatment or manufacture.
- 20. Disinfectants manufacture.
- 21. Distillation of bones, coal or wood.
- 22. Dye stuff manufacture.
- 23. Emery cloth and sand paper manufacture.
- 24. Exterminator and insect poison manufacture.
- 25. Fat rendering.
- 26. Fertilizer manufacture.
- 27. Fireworks, or explosive manufacture or storage.
- 28. Fish smoking, curing or canning.
- 29. Forage plant.
- 30. Freight classification yard.
- 31. Gas (illuminating or heating) manufacture.
- 32. Glue, size, or gelatine manufacture.
- 33. Gunpowder manufacture or storage.
- 34. Incineration or reduction of garbage, dead animals offal, or refuse.
- 35. Iron, steel, brass, copper, tin, or zinc foundry or fabrication plant and heavyweight casting.
- 36. Lamp black manufacture.
- 37. Match manufacture.
- 38. Mill, alfalfa.
- 39. Oilcloth or linoleum manufacture.
- 40. Ore reduction.
- 41. Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture.
- 42. Paper and pulp manufacture.
- 43. Petroleum products manufacture or wholesale storage of petroleum.
- 44. Plating works.
- 45. Potash works.
- 46. Preparation or treatment of oiled rubber or leather goods in their raw state.
- 47. Printing ink manufacture.
- 48. Public park areas.
- 49. Pyroxylin manufacture.
- 50. Quarry or stone mills.
- 51. Railroad repair shops.
- 52. Rock crusher or rock, sand and gravel excavation.
- 53. Rolling mills.
- 54. Rubber or gutta-percha manufacture or treatment.
- 55. Salt works.
- 56. Sauerkraut manufacture.
- 57. Sausage manufacture (If any killing of animals is done on the premises).
- 58. Saw mills.
- 59. Smelters.
- 60. Soap manufacture.
- 61. Sodium compounds manufacture.
- 62. Stock yards or feeding pens.
- 63. Storage, sorting, collecting, and baling of rags, paper, iron, or junk.
- 64. Stove and shoe polish manufacture.
- 65. Tallow, grease, or lard manufacture or refining.
- 66. Tanning, curing or storage of leather, rawhide or skins.

67. Tar distillation or tar products manufacture.
68. Tar roofing or waterproofing manufacture.
69. Tobacco (chewing) manufacture or treatment.
70. Vinegar manufacture.
71. Wood pulling or scouring.
72. Yeast plant.
73. Other uses similar to the above, and those uses which are abnoxious or offensive by reason of appearance and emission of odor, dust, smoke, gas, noise and vibration.

B. PARKING SPACE REQUIRED

Parking space must be provided on or within eight-hundred (800) feet of the site for the automobiles of all personnel employed and operating therefrom.

C. AREA

Percent of coverage. Full coverage is allowable; providing minimum parking space, loading space, and setbacks have been provided.

D. BUILDING SETBACK REQUIREMENTS

1. Front yard. No front yard will be required.
2. Side yard. Side yards will not be required, but if side yards are created they shall be a minimum of three (3) feet wide and three (3) feet deep.
3. Rear yard. No structural improvements except road surfacing will be allowed within ten (10) feet of the center line of the alley.

E. VISION CLEARANCE

Vision clearance for corner lots on streets with widths of less than sixty-six (66) feet shall be a minimum of one (1) foot vision clearance for each foot of street width under sixty-six (66) feet; provided that a vision clearance of more than ten (10) feet shall not be required. Said vision clearance shall be from the curb or walk level to minimum height of eight (8) feet.

SECTION XVI. GENERAL PROVISIONS

USE

1. Conformance and permits required. No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved or maintained, nor shall any building, structure or land be used or designed to be used for any use other than is permitted in the zone in which such building, structure or land is located, and there only after applying for and securing all permits and licenses required by all laws or ordinances.



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2. Other uses. Where the term "other uses similar to the above" is mentioned, it shall be deemed to mean other uses which, in the judgment of the Planning Commission, are similar to and not more objectionable to the General Welfare than the uses listed in the same section.

B. PARKING SPACE

1. Private parking.

a. Required garages and parking areas for residential and industrial development will be found under the zoning classification. When a single-family residence is located on a site inaccessible by automobile due to topographic conditions or excessive grades, a private garage shall not be required.

b. Automobile parking space allowing three-hundred (300) square feet per automobile (parking plus driving space) shall be provided and maintained for any new or enlarged building as listed below:

1. Churches, auditoriums, theaters, stadiums, clubs, high schools, business schools, and universities or similar places of assembly, at least one (1) permanently maintained parking space for every twelve (12) seats provided in said building or structure.

2. For hotels and apartment hotels, at least one (1) permanently maintained parking space for each of the first twenty (20) individual guest rooms, and one (1) additional parking space for every three (3) guest rooms in excess of twenty (20).

3. Auto courts shall provide at least one (1) parking space for each lodging unit.

4. For fraternity, sorority, and student houses, at least one (1) permanently maintained parking space for every four (4) beds.

5. For hospitals and welfare institutions, at least one (1) permanently maintained parking space for each one-thousand (1,000) square feet of floor area.

6. Clinics shall provide at least two (2) parking spaces for each consultation and operating room.

7. For business or commercial buildings or structures, at least one (1) permanently maintained parking space for every one-thousand (1,000) square feet or fraction thereof of floor space within the building exclusive of automobile parking space.

8. Mortuaries shall provide parking spaces for all people employed therein plus at least one (1) parking space for each one-hundred (100) square feet of building floor area.

c. Parking spaces shall be on the same lot with the main building or structure or located not more than eight-hundred (800) feet therefrom.

2. Loading space. In addition to the ten (10) foot setback requirement from the center line of the alley, every hospital, hotel, institution, commercial or industrial building hereafter erected of established which abuts upon an alley or is surrounded on all sides by streets shall have one (1) permanently maintained loading space for commercial vehicles of not less than ten (10) feet in width and twenty-two (22) feet in length for each four thousand (4,000) square feet of lot area or fraction thereof upon which the building is located; provided that not more than two (2) such loading spaces shall be required.

3. Public parking areas.

a. Land hereafter used for public parking areas shall be developed according to a plan approved by the Planning Commission and shall have:

1. Asphaltic, concrete or other approved type of surfacing.
2. Bumper guards where needed.
3. An ornamental fence, wall or hedge enclosing the parking area to a height not less than three (3) feet nor more than six (6) feet, but adhering to the vision clearance, and front and side yard setbacks established for the district in which it is located. Said fence, wall or hedge shall be maintained in good condition.
4. When a parking lot adjoins property classified in an 'R' district, the setback for the parking lot shall conform to the requirements for the adjacent 'R' district, and the fence, hedge or wall between the 'R' district and the parking lot shall be six (6) feet in height.

C. SIGNS

See district or zone classification.

D. HEIGHT

1. Height limits established for the various zones or districts refer to the height of the building proper. Roof structures such as housing for elevators, tanks, ventilating fans, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts, or similar structures may exceed the height limit herein proscribed.
2. On lots sloping downhill from the street, buildings may have an additional story; provided the ceiling of the lowest story is not more than two (2) feet above the average curb level along the front of the lot.

E. AREA

See district or zone classification.

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F. BUILDING SETBACK REQUIREMENTS

1. Front yard.

a. Where front yards are required, no buildings or structures shall be hereafter erected or altered so that any portion thereof shall extend into the required front yards, except that eaves, cornices, steps, terraces, platforms, and porches having no roof covering and being not over three and one-half (3½) feet high may be built within a front yard.

b. Fences or walls may be constructed or hedges planted; provided they do not exceed three and one-half (3½) feet in height, and further provided they do not interfere with vision clearance required for corner lots.

c. When forty (40) percent or more, on front foot basis, of all the property on one side of the street between two intersecting streets (at the time of passage of this Ordinance) has been built up with buildings having a minimum front yard of more or less depth than that established by this Ordinance, and provided that the majority of such front yards do not vary more than six (6) feet in depth, no building shall be built within nor shall any portion project into such minimum front yard; provided further that no new buildings be required to set back more than thirty-five (35) feet from the street line (except where specified otherwise in this or other ordinances for the purpose of street widening), nor more than two (2) feet farther than any building on an adjoining lot, and that this regulation shall not be interpreted as to reduce a required front yard to less than ten (10) feet in depth.

d. When the master road plan or zoning plan indicates that a street is to be opened or widened, the setbacks required shall be measured from the proposed right-of-way. The minimum future width of any road right-of-way shall be considered to be fifty (50) feet unless expressly designated otherwise.

e. Setbacks from half dedications of streets. When a subdivision plat has been accepted and filed with half width dedications of streets on the exterior boundary of the subdivision, setbacks for structures on land contiguous to or fronting upon half width-dedicated streets but not within the subdivided tract, shall be a minimum of the required setbacks for the zone or district in which it is located and not less than twenty-five (25) feet nor less than the width of the half dedication of the street.

2. Slide Yard

a. No building or structure shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated under the district or zone classification, except that eaves or corners may extend over the required side yard for a distance of not more than two (2) feet.

b. Fences, walls, or hedges which tend to serve as a wall or yard enclosure may be maintained in a side yard provided they do not exceed six (6) feet in height.

c. The Planning Commission may, upon the joint request of the owners of the adjoining property, permit the erection of private garages or other accessory buildings (except cages, stalls, corrals, etc., in the RA district) upon or immediately adjacent to the division line between the two properties, after an examination of the location and findings have revealed that the granting of such permission will not be unduly detrimental to adjacent and surrounding property nor the zone in which such permission is granted. The foregoing provision shall be limited to the life of the structure or structures for which the permit is issued.

d. When the master road plan or zoning plan indicates that a street is to be opened or widened, the side yard setbacks required along a side street shall be measured from the proposed right-of-way. The minimum future width of any road right-of-way shall be considered to be fifty (50) feet unless expressly designated otherwise.

e. See section XVI, F-1-e. (Page-30).

G. VISION CLEARANCE.

See district or zone classification.

SECTION XVII. NON-CONFORMING USES

A. Any lawful use existing in any building, structure, or premises at the time of the passage of this Ordinance may be continued thereon although not conforming to the district in which it is maintained, provided that:

1. The only nonconforming use allowed will be the one which existed upon the date this Ordinance was passed.

2. In the case a business or industry is being maintained in a residence district, the building, structure, or premises in or upon which it is maintained shall not be enlarged in height or bulk or reconstructed of more permanent material.

3. In the case a nonconforming building or structure is razed, removed, or deteriorated beyond reasonable repair, the premises shall be automatically reclassified without notice as a district of the same class to which it had previously formed an exception.

4. If the nonconforming use is discontinued, for any reason, for more than one (1) year, it shall not be re-established, unless such period is extended by special permit.

B. Any nonconforming building or structure, not started or completed on the effective date of this Ordinance, for which a building permit has been issued may be started within a period of six (6) months and completed within a period of eighteen (18) months after such date.



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SECTION XVIII. BOUNDARIES OF ZONES

A. Zone boundaries are either streets or alleys unless otherwise shown.

B. LOT LINES

1. Where zone boundaries are not shown on streets or alleys and where the indicated boundaries on the zoning map are approximately lot lines as existed at the time this Ordinance became effective, said lot lines shall be construed to be the boundaries of such zone, unless said boundaries are otherwise indicated.

2. Where zone boundaries are not shown on streets or alleys and where the property has not been subdivided into blocks and lots, the zone boundaries shall be construed to be lot lines.

C. VACATED STREETS OR ALLEYS

When a dedicated street or alley shown on the zoning map is vacated by ordinance, the property shall be included within the zone of the adjoining property on either side of the vacated street or alley.

SECTION XIX. SUBMISSION OF PLANS FOR DEVELOPMENT IN ARCHITECTURALLY CONTROLLED AREA.

Any portion of any zoned district or any subdivision may request nominal architectural control wherein such controls are essential to scenic preservation or the stabilization of land values. Such areas shall be designated on the map by the district symbol followed by "X". Within such areas, a builder must first have plans, specifications, and uses approved by the Planning Commission, and said plans and stated uses are to be filed with the permit. The Planning Commission is charged with the responsibility of ascertaining that the architectural design, the yard widths, landscaping, and method of ingress and egress to the highway are of standards to achieve attractive communities and safe thoroughfares.

SECTION XX. INTERPRETATION, APPLICATION, AND VARIANCES

A. MINIMUM REQUIREMENTS

In interpreting and applying the provisions of this Ordinance, they shall be construed to be the minimum requirements for the promotion of the public health, safety, morals, and general welfare; therefore, where this Ordinance imposes a greater restriction upon the use of the buildings or premises, or upon the height of buildings, or required larger open spaces than those imposed or required by other laws, ordinances, rules, or regulations, the provisions of this Ordinance shall control.

B. USES NOT SPECIFICALLY COVERED

The Planning Commission, subject to review by the County Court, may permit in a zone any use not described in this Ordinance if, in their opinion, the requested use is in general keeping with the uses authorized in such district.

C. TEMPORARY PERMITS FOR NONCONFORMING USES

The Planning Commission may approve the granting in undeveloped sections of temporary and conditional permits for not more than one (1) year periods, for temporary structures and uses that do not conform with the regulations herein prescribed for the districts in which they are located.

D. VARIANCES

1. Variances from restrictions governing use of property. The Planning Commission may permit and authorize a variance from the restrictions governing use of property if, from the petition, or the facts presented at a public hearing, or by investigation, the Planning Commission finds:

- a. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of uses in the same district so that a denial of the petition would result in undue property loss, and
- b. That such variance is necessary for the preservation and enjoyment of a property right of the petitioner, and also
- c. That such variance will not be detrimental to the public welfare or convenience, nor injurious to the property or improvements of other owners of property.

2. Variances from area, height limit of buildings or yard requirements. The Planning Commission shall hear all applications for variances from regulations covering area, height limit of buildings, or yard requirements. The Planning Commission may authorize said variances if, from the petition, or the facts presented at a public hearing conducted by the Planning Commission, or from investigation, said Commission finds:

- a. That the variance requested is not in conflict with the general purpose and intent of this Ordinance and
- b. That the variance will not be detrimental to the public welfare or convenience, and
- c. That such variance is necessary for the preservation and enjoyment of a property right of the petitioner, and to prevent unreasonable property loss or unnecessary hardship, and will not be detrimental nor injurious to the property or improvements of other owners of property.

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INTERPRETATION OF REGULATIONS

It shall be the duty of the Planning Commission:

1. To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose.
2. To rule on the proper application, or to interpret the meaning of the zoning Ordinance in case there is a dispute between the administrative officials of the County and any owner or owners of the property.

SECTION XXV. RIGHT OF APPEALS

A. RULING OF ADMINISTRATOR

Property owner or owners, or interested citizens, may appeal a decision of the Building Inspector to the Planning Commission within ten (10) days from such ruling. Appellant shall file with the Building Inspector and with the County Court written notice of the appeal. The Building Inspector shall forthwith transmit to the Planning Commission all papers constituting the record upon which the action appealed from was taken, and in addition thereto the Planning Commission may receive such additional evidence as seems relevant to it.

B. RULING OF PLANNING COMMISSION.

Any interested citizen or administrative officer of the County may appeal to the County Court from any ruling of the Planning Commission pertaining to the granting or denial of any permit applied for hereunder, when such ruling is adverse to his interests, by filing with the Secretary of the Planning Commission within ten (10) days from such ruling a written notice of appeal. Thereupon, the Secretary of the Planning Commission shall forthwith transmit to the County Court all papers constituting the record upon which the action appealed from was taken, and in addition thereto, the County Court may at its hearing receive such further evidence as seems to be relevant. Upon due public hearing, the County Court shall have power to overrule or alter any such ruling of the Planning Commission pertaining to the granting or withholding of any permit.

SECTION XXVI. CHANGES AND AMENDMENTS

A. The regulations herein and subsequently established may be amended, supplemented, or changed from time to time by the County Court of the County of Lane, State of Oregon, after a report thereupon by the Planning Commission and after public hearings as required by law. An amendment, supplement, or change may be initiated by the County Court, the Planning Commission, or by petition of property owners.

B. Any person desiring a reclassification of any premise, building or structure, or any variance from any of the restrictions as set forth herein, shall file an application for said reclassification or variance with the County Engineer at least seven (7) days before the Planning Commission meeting at which his application is to be considered.

C. A property owner who desires to have his property reclassified shall first prove to the Planning Commission, by appearing before said Commission in person, by representation, or by writing, that the requested reclassification will prove beneficial to the public safety, health, convenience, comfort, prosperity, and the general welfare.

SECTION XXIII. FILING FEES - SERVICE CHARGES

Before accepting for filing any application for reclassification of zoning, or before issuing a temporary permit for a nonconforming use as approved by the Planning Commission, the County Engineer shall charge and collect the following filing fees to be paid to the County Clerk:

- 1. Zone reclassification . . . . . \$10.00
- 2. Temporary permit for nonconforming use. . . 1.00
- 3. Approval to move building in County . . . 10.00

SECTION XXIV. BUILDING PERMITS

No building permits shall be issued by the Building Inspector of the County of Lancaster for the erection or alteration of any building or structure that does not conform to the following:

- 1. Adherence to the provisions of this Ordinance.
- 2. Statement of applicant to be filed with the building permit giving use, height, area, and block plan of the location of the building on the lot.
- 3. Lot fronting or abutting on a public street or having access to such street over a private street or easement recorded with the County Clerk.

SECTION XXV. MOVING OF BUILDINGS OR STRUCTURES

Before a permit is issued for a building or structure to be moved from one lot to another within the County or moved into the County from an area not within the County limits, a five-hundred dollar (\$500.00) bond must be posted with the County and the Building Inspector must determine that the building or structure will meet the following requirements:

- 1. The use for which the building was designed, and the intended use, shall be in keeping with the zone or district into which the building is moved.



27 CASE 366

- 2. The building shall meet all the requirements of the County of Lane's building, fire, and sanitation codes.
- 3. The expected usable life of the building shall be not more than fifty (50) percent expended.
- 4. The building or structure is in keeping with or not detrimental to the character and welfare of the area into which it is to be moved.

SECTION XXVI. ADMINISTRATION AND ENFORCEMENT

A. BUILDING INSPECTOR

1. It shall be the duty of the Building Inspector in the County Engineer's office to see that this Ordinance is enforced through the proper legal channels. He shall issue no permit for the construction or alteration of any building or part thereof unless the plans, specifications, and intended use of such building conform in all respects to the provisions of this Ordinance.

2. The Building Inspector shall have the authority to enter any building or upon any premise for the purpose of investigation and inspection; provided, however, that no dwelling shall be so entered without consent of the occupant unless a twenty-four (24) hour notice of intention to enter shall have been served upon such occupant.

B. LEGAL PROCEEDINGS BY DISTRICT ATTORNEY

The District Attorney, upon request of the County Court, shall institute any necessary legal proceedings to enforce the provisions of this Ordinance.

C. ENFORCEMENT BY SHERIFF

The County Sheriff and his authorized representatives shall have the power, upon the request of the County Court, to assist in the enforcement of the provisions of this Ordinance.

SECTION XXVII. VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Ordinance. The County Court of the County of Lane, State of Oregon, hereby declares that it would have passed this Ordinance and in each section, subsection, sentence, clause, or phrase, irrespective of any portion declared unconstitutional.

SECTION XXVIII. CONFLICTING PROVISIONS

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION XXXIX. VIOLATIONS AND PENALTIES

A person, firm, or corporation violating any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not more than one-hundred dollars (\$100.00) and in default of payment thereof, by imprisonment for one day for each two dollars (\$2.00) of such unpaid fine. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Ordinance is committed or continued by such person, firm, or corporation, and shall be punished accordingly.

Approved by the affirmative vote of a majority of the Lane County Planning Commission after due public notices and hearings, this 27th day of May, 1949.

Ralph S. Rogers  
Chairman

Howard W. Gifford  
Secretary

Regularly passed and adopted by the County Court of the County of Lane, State of Oregon, this 31st day of MAY 1949.

Clinton Hunk  
County Judge

W. J. Hollenbeck  
County Commissioner

County Commissioner



THURSDAY THE 13TH DAY OF JANUARY 1966

28 PAGE 44

FILED

AT O'CLOCK

JAN 13 1966

INA RANDOLPH, Director of the Dept. of Records and Elections of Lane County  
BY *Willie R. ...* DEPUTY

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

LANE COUNTY ZONING AND

Zoning Certain Land in Sections 7, 8,

LAND USE ORDINANCE NO. 204

9, 10, 15, 16, 17, 18, 19, 20, 21, 23, 29 and 30, Twp. 18S, R4W, W.M. and Sections 12, 13, 24 and 25, Twp. 18S, R5W, W.M.

TO AGRICULTURE - Grazing, Timber Raising District

The Board of County Commissioners of Lane County ordains as follows:

That the following described land do will

beginning at the south-southeast corner of the A. Cartwell D.L.C. No. 39, said point being on the east line of Section 1 in Township 18 South, Range 4 West, 1/4 mile thence west 2438.0 feet, thence continuing west 2410 feet to the west line of Section 1 in Township 18 South, Range 5 West, thence south along the west line of Sections 12, 13, 24 and 25 of Township 18 South, Range 5 West, thence east along the south line of Section 25 of Township 18 South, Range 5 West, and Sections 20, 29, and 28 of Township 18 South, Range 4 West, thence north along the east line of Section 18 of Township 18 South, Range 4 West, thence north along the east line of Sections 28 and 21 of Township 18 South, Range 4 West, to the northeast corner of said Section 21, thence north along the east line of Section 15 in Township 18 South, Range 4 West, to the southeast corner of the southwest 1/4 of the southwest 1/4 of Section 15, thence north along the east line of the west 1/2 of the west 1/2 of Sections 11 and 10 in Township 18 South, Range 4 West, thence north along the north line of Section 10, thence west along the north line of Sections 10, 7, 8, and 7 to the northwest corner of Section 7 in Township 18 South, Range 4 West, thence north along the west line of Section 7 in Township 18 South, Range 4 West, west 1075 feet more or less to the south-southeast corner of the A. Cartwell D.L.C. in Township 18 South, Range 4 West, being also the point of beginning in Lane County, Oregon.

to be zoned AGRICULTURE - GRAZING, TIMBER RAISING DISTRICT and subject

to the provisions provided therein in Lane County Zoning and Land Use Regulation

as amended, known as the Zoning Plan of the County of Lane,

and that the same be subject to the provisions of the

provisions recommended for and enacted by an affirmative vote of a

majority of the entire membership of the Lane County Planning Commission this

15th day of December, 1965, after giving due notice of public hearing and holding

a public hearing on the 14th day of December, 1965.



THURSDAY THE 13TH DAY OF JANUARY, 1966

PM 28 PAGE 45

*John B. Leaky*  
Chairman

*Edward W. Buford*  
Secretary

*January*, 1966

*John B. Leaky*  
Chairman of the Board of County  
Commissioners of Lane County

*Deby Kinther*  
Recording Secretary of the board at  
the meeting at which this ordinance  
was enacted.

SEPTEMBER 28 FRIDAY THE 28TH DAY OF SEPTEMBER, 1951, 21ST JUDICIAL

BOOK 29 PAGE 303  
**FILED**  
AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M

IN THE COUNTY COURT OF THE STATE OF OREGON FOR LAKE COUNTY  
SITTING IN AND FOR THE TRANSACTION OF COUNTY BUSINESS

SEP 28 1951

HARRY L. CHASE  
COUNTY CLERK

*[Signature]*  
DEPUTY



In the matter of an Ordinance )  
to amend Zoning and Land Use )  
Regulation Ordinance #4 )

ORDER

Zoning and Land Use Regulation  
Ordinance #26

WHEREAS, a majority of the entire membership of the Lane County Planning Commission after due posting of notices and a public hearing on September 25, 1951 voted in favor of certain amendments to Zoning and Land Use Regulation #4 as hereinafter stated and thereby recommended to the Lane County Court that the same be enacted into the Ordinance.

NOW, THEREFORE, THE COUNTY COURT OF THE COUNTY OF LAKE,  
STATE OF OREGON DOES ORDAIN AS FOLLOWS:

Zoning and Land Use Regulation Ordinance #4 as recommended by the Lane County Planning Commission on May 27, 1949 and approved by the County Court on May 31, 1949 be and the same is hereby amended in the following particulars:-

SECTION IV. DEFINITIONS

"AGRICULTURE: The tilling of the soil, the raising of crops, horticulture, small livestock farming, dairying and/or animal husbandry. Land uses in any zoned district other than those described above and not included under the definition of grazing or timber growing, regardless of area of land ownership are subject to the provisions of this or other zoning ordinances. Tracts of land of five acres or less shall be, for the purpose of this ordinance, presumed to be non-agriculture, non-grazing, non-horticulture and not used for the growing of timber unless proved to be otherwise".



"GRAZING: The use of land for pasture of horses, cattle, sheep, goats, and/or other domestic herbivorous animals alone or in conjunction with agriculture pursuits. Land uses in any zoned district other than those described above and not included under the definition of agriculture or timber growing, regardless of land ownership are subject to the provisions of this or other zoning ordinances. Tracts of land of five acres or less shall be, for the purpose of this ordinance, presumed to be non-grazing, non-agriculture, non-horticulture and not used for the growing of timber, unless proved to be otherwise."

Approved by the affirmative vote of a majority of the Lane County Planning Commission this 25th day of September, 1951.

*Ralph E. Rogers*  
Chairman

*Richard W. [Signature]*  
Secretary

Regularly passed and adopted by the County Court of the County of Lane, State of Oregon, this 27 day of Sept, 1951.

*[Signature]*  
County Commissioner

*D T Bayley*  
County Judge

*R. W. [Signature]*  
County Commissioner



IN THE COUNTY COURT OF THE STATE OF OREGON FOR LANE COUNTY  
SITTING IN AND FOR THE TRANSACTION OF COUNTY BUSINESS

In the matter of an Ordinance )  
To Amend Zoning and Land Use ( )  
Ordinance #4 )

O R D E R

Ordinance No. (45)  
Amending Sections VI.  
and VIII.

SECTION VI. AGT AGRICULTURE, GRAZING, TIMBER-RAISING DISTRICT

The following regulations shall apply to AGT Agricultural, Grazing,  
Timber-Raising District:

A. USE - delete and substitute therefore:-

A. USE

No building, structure, or land shall be used, and no building or  
structure shall be hereafter erected, structurally altered, enlarged,  
or maintained except for the following uses:

1. Agriculture, grazing, and/or timber raising.
2. Dwelling or dwellings for owners, operators, and/or help required  
to carry out a use as specified in A. 1, above.
3. Accessory buildings normally required in connection with a use  
as specified in A. 1, above.
4. 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.
5. Parks, playgrounds, golf courses or community centers owned and  
operated by a governmental agency.
6. Grange halls.
7. Churches with off-street parking as provided in Section XVII., B.  
and setbacks from side and rear property lines of at least 20 feet.
8. Schools (elementary, Junior High and High) providing a 50 foot  
building setback is maintained from abutting, privately owned property.
9. Hospitals with the same building setbacks as established in 8.  
(above)
10. Public and semi-public buildings and structures essential to the  
physical and economic welfare of an area, such as fire stations, sub-  
stations and pump stations, provided that side and rear yards shall be a  
minimum of 20 per cent of the property width, but not less than ten (10)  
feet nor necessarily more than thirty (30) feet.
11. The following uses may also be permitted if their location is  
first approved by the Planning Commission after a public hearing provided  
said uses are deemed to be essential or desirable to the public convenience  
or welfare, are in harmony with the general purpose and intent of the  
comprehensive zoning plan, and are not detrimental to the physical develop-  
ment of the community; airports, correctional institutions; cemeteries;  
circus quarters, or menageries; radio stations and television stations;  
sanitariums; stadiums.

B. REGULATIONS

1. Regulations hereafter prescribed shall not apply to uses conform-  
ing to A. 1, A.2, and A. 3.

Approved by the affirmative vote of a majority of the Lane  
County Planning Commission this 18th day of November, 1952.

Ralph Rogers  
Chairman

Franklin Bedford  
Secretary

Regularly passed and adopted by the County Court of the County  
of Lane, State of Oregon, this 5<sup>th</sup> day of December, 1952.

X D.T. Bayly  
County Judge

X R.W. Maclean  
County Commissioner

X L.J. Raush  
County Commissioner

Filed  
12-8-52

**FILED**

BY                      CLERK

AUG 14 1968

THE SHERIFF, Sheriff of the  
State of Oregon and Secretary of Lane County  
*[Signature]*

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

LANE COUNTY ZONING AND )  
  )  
LAND USE ORDINANCE NO. 293 )

In the matter of an Ordinance  
to amend Lane County Zoning  
and Land Use Regulation Ordinance  
No. 4, Sections IV, VI, XIII,  
XVI-1, XXI, XXIII and XXV.

The Board of County Commissioners of Lane County ordains as follows:  
That Lane County Zoning and Land Use Regulation Ordinance No. 4 be amended in  
accordance with the amendments in Exhibit "A" attached hereto and made a part  
hereof as if set out in full herein.

Enacted this 14<sup>th</sup> day of August, 1968.

APPROVED AS TO FORM  
DATE 8/14/68  
[Signature]  
CLERK OF COUNTY COUNCIL

[Signature]  
Chairman of the Board of County  
Commissioners of Lane County

[Signature]  
Recording Secretary of the Board at  
the meeting at which this ordinance  
was enacted

Approved and recommended for enactment by the affirmative vote of the Lane  
County Planning Commission this 23rd day of July, 1968, after giving due notice  
of public hearing and holding a public hearing on the 23rd day of July, 1968.

[Signature]  
Chairman

[Signature]  
Secretary

AMENDMENTS TO LAKE COUNTY ZONING AND LAND USE ORDINANCE NO. 4

AMENDING SECTIONS IV, VI, XIII, XVI-1, XXI, XXIII and XXV.

LAKE COUNTY ZONING AND LAND USE ORDINANCE NO. 293.

UNDER SECTION IV. DEFINITIONS, delete the following definitions in their entirety:

AUTOMOBILE TRAILER PARK  
AUTOMOBILE AND/OR TRAILER SALES AREA  
BUILDING  
CAMPGROUND  
CARAVAN  
CAMPING VEHICLE  
CAMPING VEHICLE PARK  
CONCRETE  
FOURTY COURT  
TRAILER PARK

and substitute in lieu thereof the following:

AUTOMOBILE, MOBILE HOME OR CAMPING VEHICLE SALES AREA: Uncovered premises used for display, sales or rental of new or used automobiles, mobile homes, camping vehicles or accessories thereto.

AWNING: Any stationary structure, permanent or demountable, used in conjunction with a mobile home, other than a window awning, for the purposes of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.

BUILDING: The terms "building" and "structure" shall be synonymous, and shall mean that which is framed, erected, constructed, or placed to stand temporarily or permanently on a parcel of land. This definition shall specifically include, for the purpose of this ordinance, a mobile home and accessories thereto. Driveways or walks not more than six (6) inches higher than the ground on which they rest shall not be considered buildings.

CARAVAN: A stationary lightweight structure which may be prefabricated or demountable, with two (2) or more walls, used adjacent or in conjunction with a mobile home, to provide additional living space which is meant to be moved with the mobile home.

CAMPGROUND: Any lot, tract or parcel of land under the same ownership where two (2) or more camp sites are located which provide facilities for living in any manner other than in a permanent building constructed of wood, etc.

CAMPING VEHICLE: A vehicle or structure equipped with wheels for highway use and which is intended for human occupancy, is not being used for residential purposes but for vacation and recreational purposes. If occupancy of a vehicle or structure exceeds 45 days in any 12-month period, it shall be presumed that said vehicle or structure is being used for residential purposes.

CAMPING VEHICLE PARK: Any place where two (2) or more camping vehicles are parked within 500 feet of one another on a lot, tract or parcel of land under the same ownership.

CARPORT: A stationary structure consisting of a roof with its supports and no more than one (1) wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.



**"DWELLING:** A building or portion thereof which is occupied in whole or in part as a residence or sleeping place, either permanently or temporarily by one (1) or more families, but excluding hotels, motels, auto courts, mobile homes and camping vehicles.

**"DWELLING, SINGLE-FAMILY:** A detached dwelling designed or used exclusively for the occupancy of one (1) family and having housekeeping facilities for only one (1) family. No more than three (3) persons in addition to the family may be regularly lodged or furnished meals therein.

**"DWELLING, TWO-FAMILY (DUPLEX):** A building consisting of two (2) separate dwelling units with a common roof and common foundation designed and used exclusively for the occupancy of two (2) families living independently of each other and having housekeeping facilities for each family.

**"MOBILE HOME:** Any portable structure or vehicle which is constructed and designed so as to permit human occupancy thereof and is being used for residential purposes. For the purposes of this definition, it shall be immaterial (1) whether said vehicle or structure is placed upon property for a temporary, semi-permanent or permanent use, (2) that wheels may be removed allowing said vehicle or structure to be placed upon posts, footings or a foundation, or (1) whether or not said vehicle or structure meets the structural requirements of the Lane County Building Ordinance. If occupancy of a vehicle or structure exceeds 90 days in any 12-month period, it shall be presumed that said vehicle or structure is being used for residential purposes.

**"MOBILE HOME PARK:** Any place where two (2) or more mobile homes are parked, placed or located within 300 feet of one another on a lot, tract or parcel of land under the same ownership.

**"RAMADA:** A stationary structure having a roof extending over a mobile home, which structure may also extend over a patio or parking area for motor vehicles, and is used principally for protection from sun and rain.

**"STRUCTURE:** See "Building".

**"TOURIST PARK:** All campgrounds, picnic parks, camping vehicle parks and all other establishments rented or kept for rent to any person for a charge or fee paid or to be paid for the rental or use of the facilities or offered free in connection with securing the trade or patronage of such person or for indirect benefit to the owner in connection with a related business."

**SECTION VI, ACT AGRICULTURE, GRAZING, TIMBER-RAISING**, add the following:

Under "USE," Subsection "A", add the following items:

"12. Mobile home on an individual lot or site, pursuant to a mobile home use permit issued by the Department of Health and Sanitation. (See SECTION XVI-1(3)), if located in a subdivision approved by the Planning Commission, the conditions and requirements of SECTION VIII shall apply.

"13. Normal accessories for a mobile home, such as awning, cabana, ramada, patio, carport, garage or storage building, pursuant to an original mobile home use permit or subsequent permit for only accessories.

"B. AREA

" 1. Size of Lot

a. No dwelling unit or mobile home shall be erected or located on less than one acre of lot area having a minimum average width of not less than one hundred fifty (150) feet. Notwithstanding the lot area and lot width requirements of this

section, a single-family dwelling or mobile home may be erected or located on any lot separately owned at the time of the passage of this amendment, or on any numbered lot in an approved and filed major or minor subdivision plat that was on record at the time of the passage of this amendment.

- b. Lots for other uses as specified under A-5, A-6, A-7, A-8, A-9 and A-10 shall have a minimum width of two hundred (200) feet and a minimum area of one (1) acre.

"2. PERCENT OF COVERAGE

The main building and accessory buildings located on any one building site or lot shall not cover in excess of thirty (30) percent of the lot area."

SECTION XIII, C-3 COMMERCIAL DISTRICT, Subsection A, "USE": Delete paragraph 14 in its entirety, and renumber the remaining paragraphs accordingly.

SECTION XVI-1, TP TRAILER PARK DISTRICT: Delete said section in its entirety, and substitute in lieu thereof the following:

" SECTION XVI-1 (1) MM MOBILE HOME DISTRICT

"The following regulations shall apply in any zone where the suffix "MM" appears after the zone designation.

"A. USE

- "1. A mobile home may be placed, parked or located on any parcel of land in any RA, RC or RP district that is designated by the suffix MM, provided such mobile home is for residential use only.
- "2. Normal accessories for a mobile home, such as an awning, cabana, ramada, patio, carport, garage or storage building shall be allowed in this district.
- "3. All of the uses allowed in the basic zoning district shall also be allowed in a district with a MM suffix.

"B. REQUIREMENTS AND REGULATIONS

- "1. No person shall maintain more than one (1) mobile home on a single legal building site, other than in mobile home parks.
- "2. All the requirements and regulations of the basic zoning district shall also apply to a district with a MM suffix. Mobile homes shall be subject to the same regulations and standards as a single-family dwelling in the basic zoning district.
- "3. Before a mobile home or any accessories thereto are permitted under this District, a mobile home use permit shall be obtained from the Department of Health and Sanitation. (See SECTION XVI-1 (3) ).

"C. PROHIBITING MOBILE HOMES IN OTHER DISTRICTS - EXCEPTIONS - TEMPORARY PERMITS

- "1. No person shall maintain a mobile home for residential purposes in any other zoning district of the county, except as follows:
  - "a. Mobile homes in an AGT District, pursuant to a mobile home use permit.
  - "b. Mobile homes in a permitted mobile home park.

FILED  
AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M

SEP 4 - 1969

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

W. R. HANDELPH, Director of the  
Dept. of Records and Statistics of Lane County

LANE COUNTY ZONING AND LAND  
USE ORDINANCE NO. 343

In the MATTER of  
Amending Lane County Zoning and Land  
Use Regulation Ordinance No. 4, Sec. VI

The Board of County Commissioners of Lane County ordains as follows:

That Lane County Zoning and Land Use Regulation Ordinance No. 4 be  
amended as follows:

Under SECTION VI, AGRICULTURE, GRAZING & TIMBER RAISING DISTRICT (AGT):  
Redesignate Subsection "C" as Subsection "D", and add Subsection "C",

as follows:

C. YARD REGULATIONS

1. Front Yard Setback

- a. Basic structure: 15 feet.
- b. Garages, carports and parking spaces with access from the front or side of the property: 20 feet.

2. Side Yard Setback

- a. Basic structure:
  - Interior: 5 feet
  - Alley: 5 feet
  - Street: Regular corner lot: 10 feet
  - Reverse corner lot: 15 feet
- b. Garages, carports or parking spaces with access from:
  - An alley side yard: Not less than 14 feet from the alley centerline.
  - A street side yard: Not less than 20 feet from the property line.
- c. Where a utility easement is recorded, the setback shall be not less than the width of the easement.

This ordinance being enacted by the Board of County Commissioners in the  
exercise of its police power and for the purpose of meeting an emergency, and being  
necessary for the immediate preservation of the public peace, health and safety, so



11

emergency is declared to exist, and this ordinance shall take effect immediately upon being enacted.

Enacted this second day of September 19 69

APPROVED AS TO FORM  
DATE 8/20/69  
Walter T. Alderson  
CLERK OF COUNTY BOARD

Frank A. Smith  
Chairman, Lane County Board of Commissioners

Linda Albrecht  
Recording Secretary for this Meeting of the Board

The hereinabove ordinance approved and recommended for enactment by majority vote of the Lane County Planning Commission this 12th day of August, 1969, after giving due notice of public hearing, and holding a public hearing on the 12th day of August, 1969.

William A. Peterson  
Chairman, Lane County Planning Commission

Lee Miller  
Secretary, Lane County Planning Commission



EXHIBIT M  
Craig E. McKern, Appraiser, P.C.  
State Certified Residential Real Estate Appraiser  
Mailing: 1574 Coburg Road, PMB 397, Eugene, Oregon 97401-4802  
Telephone 541-345-0744 Facsimile 541-345-0577  
email: cem9th@msn.com

January 26, 2006  
Donald W. Johnson et al  
Spencer Creek LLC  
Number Not Assigned Spencer Creek Road, Eugene, Oregon 97405  
Tax Lot 18-04-21-00-00500

c/o Steve Cornacchia  
Hershner Hunter  
180 East 11<sup>th</sup> Avenue, Eugene, Oregon 97401

RE: Lane Code 2.740 (6)

Steve,

For your files, here is the Ballot Measure 37 summary for the above owner's properties located at Number Not Assigned Spencer Creek Road, Eugene, Oregon 97405. See the report cover page following this synopsis letter for an outline of the two appraisal scenarios; see also the Land Use Regulation reports prepared by James Mann, LLC, for the entire parcel and his findings regarding Ballot Measure 37 as it pertains to this property.

These two restricted appraisal reports of complete appraisals for the subject property are restricted to knowledgeable users, namely yourself and your clients, with acknowledgment a Lane County claims decision committee will be a reader of these reports.

The reports are organized to provide opinions of value both for "before" and "after" the Ballot Measure 37 claims process. The "before" values are for the entire tax lot noted primarily "as is" however with the extraordinary assumption that a single buildable homesite can be obtained on the one legal lot of record even under current Exclusive Farm Use zoning. Obtaining a one homesite use would involve a conditional or special use permit for this parcel; this assumption does not appear to be unreasonable considering the James Mann findings of very limited restrictions on having such a homesite when the property was purchased or transferred to Donald Johnson in 1969.

The actual buildability of the "before" scenario parcel, and of the hypothetical four acre parcels I have been asked to postulate for Ballot Measure 37 purposes, may be affected by one or more of the following physical factors: so far as the appraiser has been made aware, there is presently no well installed and no septic system approval on the entire parcel. Soils appear to allow no standard septic system possibilities with the strong likelihood more expensive sand filter systems will be required because of slow soil permeability and ponded seasonal surface water.

This is typically an added expense to a buyer and typically a deduction from a sale price.



Johnson  
Number Not Assigned Spencer Creek Road  
Tax Lot 18-04-21-00-00500  
c/o Steve Cornacchia  
page two of two

There are a variety of wells in the area with various flow rates and potability factors; for four acre or less parcel sizes, and considering a joint use road system will be necessary to access parcels from the public way, a community water system might be investigated for cost effectiveness if this Measure 37 claim is allowed versus the expense of ten separate wells all tapping the aquifer.

Should this Ballot Measure 37 claim be fully approved by Lane County subject to physical requirements for any setbacks, driveways viable wells and septic system approvals, it is my opinion, hypothetically speaking, that Tax Lot 500 could have 10 or more four or less acre sites available out of 44.38 acres total. The number of actual approved sites could possibly be increased from 10 four acre sites to about 30-35 more or less one acre sites under the finding of James Mann's report noting allowance in 1969 for "dwelling or mobile home lots of not less than one acre and with an average width of not less than 150 feet". However, given soil limitations, considerable engineering expense for infrastructure would be necessary and in addition such a manufactured home tract may be deemed out of character for the neighborhood.

This specific one acre parcel scenario is outside the scope of this report however I could postulate values for one acre parcels for a reasonable additional fee. The four acre scenario was used by this appraiser after consultation with Mr. Johnson with consideration for most suburban small acreage purchasers desire for some "elbow room" around a new dwelling and with allowance for ample space and dimension for well and septic system placement, given soils, drainage and driveway, dwelling and outbuilding placement.

Therefore it is postulated:

"Before scenario value", assuming one buildable site for present Tax Lot 500 - \$450,000.

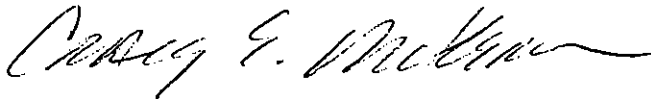
"After scenario value" with assumptions outlined above and in the specific report:

A total of 10 - four acre hypothetical buildable sites at \$230,000 each = \$2,300,000.

The postulated, hypothetical dollar difference of \$1,850,000 can be attributed to the creation of 10 buildable four acre sites from previously undeveloped but hypothetically buildable (under Measure 37 procedures) acreage.

Please contact me if you have any questions.

Cordially,



Craig E. McKern

Two Restricted Appraisal Reports of Complete Appraisals of:

Tax Lot 18-04-21-00-00500  
A 44.38 acre site, the "before" instance  
(one legal lot; one buildable single family residence  
homesite assumed permitted as a hypothetical  
condition under Measure 37 proceedings)  
Report 110805A

AND

A hypothetical four acre portion of  
Tax Lot 18-04-21-00-00500  
A four acre site, the "after" instance  
(one of 10 acreages hypothetically postulated  
for one single family residence building site each  
under Ballot Measure 37 proceedings)  
Report 110805B

Address:  
Number Not Assigned Spencer Creek Road  
Eugene, Oregon 97405

Client:

Johnson, Donald W. et al  
Spencer Creek LLC

c/o Steve Comacchia, attorney  
Hershner Hunter  
180 East 11th Avenue  
Eugene, Oregon 97401

Purpose of the Appraisal:

To estimate market value of under hypothetical use scenarios  
outlined in the text and exhibits of the reports 110805A and 110805B

Use of the Appraisal:

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

Date of Most Recent Inspection  
and Effective Date of Report:  
December 5, 2005

Report Completion Date:  
January 26, 2006

Prepared by:

Craig E. McKern, Appraiser, P.C.  
Certified Residential Real Estate Appraiser  
1574 Coburg Road, PMB 397  
Eugene, Oregon 97401-4802  
files 110805A and 110805B

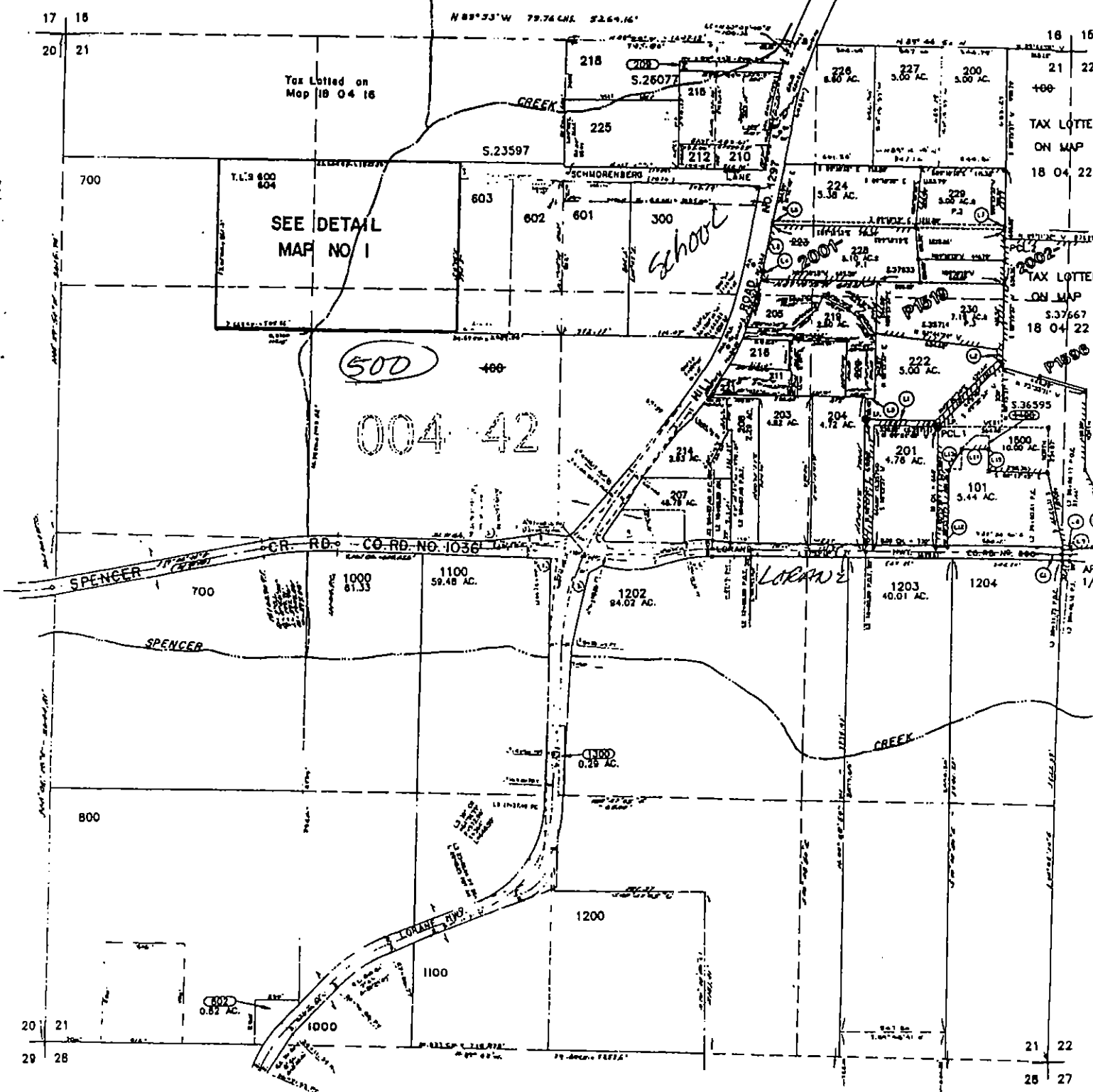
ASSESSMENT  
D TAXATION  
ONLY

SECTION 21 T.18S. R.4W. W.M.  
LANE COUNTY

SCALE 1" = 400'

DATE	REVISION	APPROVED
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER
11/15/18	ADD TAX LOTS TO MAP	LESTER

SEE MAP 18 04 18



SEE MAP 18 04 28

# Aerial Photographs

Borrower/Client	No borrower				
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500				
City	Eugene	County	Lane	State	OR
Zip Code					97402
Lender	Johnson, Donald. c/o Steve Comacchia, attorney				



Subject general area with subject left and above crossroads

Eugene proper is north and east of crossroads

Lorane Highway at upper right corner and proceeding south from crossroads; Spencer Creek Road left of crossroads, Bailey Hill Road is north of crossroads and is the main access road from Spencer Creek and Lorane Highway to southwest Eugene



Detail of subject site left and above crossroads with Twin Oaks Elementary School grounds directly north of subject site

Schnorenberg Lane is across upper center of photo with access from Bailey Hill Road

**PHOTOGRAPH ADDENDUM One**

Borrower/Client	No borrower		
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500		
City	Eugene	County	Lane
State	OR	Zip Code	97402
Lender	Johnson, Donald. c/o Steve Comacchia, attorney		



Looking east on Spencer Creek Road to intersection with Bailey Hill Road (left) and Lorane Highway (ahead and to right)

Spencer Butte in distance



Looking east along south line toward same spot, low knoll on left is spot of the general cite photos which follow

The knoll can be seen in the intersection of the roads aerial photo to the upper left



Looking southerly from knoll to intersection with Spencer Creek Road on right, Lorane Highway to left and to south

Bailey Hill Road becomes Lorane Highway

**PHOTOGRAPH ADDENDUM Two**

Borrower/Client	No borrower				
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500				
City	Eugene	County	Lane	State	OR
Zip Code	97402				
Lender	Johnson, Donald. c/o Steve Comacchia, attorney				

Looking southeasterly from knoll up Spencer Creek Valley with Bailey Hill Road on left, Lorane Highway to left center



Looking easterly from knoll, place of worship in mid distance



Looking northeasterly from knoll to Twin Oak Elementary School grounds past north property line of subject



**PHOTOGRAPH ADDENDUM Three**

Borrower/Client	No borrower						
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500						
City	Eugene	County	Lane	State	OR	Zip Code	97402
Lender	Johnson, Donald, c/o Steve Comacchia, attorney						



Looking northerly to northwesterly from knoll over north central portion of subject site



Looking northwesterly from lower west slope of knoll with west property line this die of white structure in right center of photo



Looking west from same point as above with subject west property line running left to right below slope line in distance



### PHOTOGRAPH ADDENDA Four

Borrower/Client	No borrower				
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500				
City	Eugene	County	Lane	State	OR
				Zip Code	97402
Lender	Johnson, Donald. c/o Steve Comacchia, attorney				



Looking westerly along south property line from approximate center of subject site



Looking north along west property line (approximate) ditch is for surface water drainage and so far as appraiser can tell is a seasonal creek



Drainage ditch or seasonal creek looking south toward Spencer creek Road

**PHOTOGRAPH ADDENDA Five**

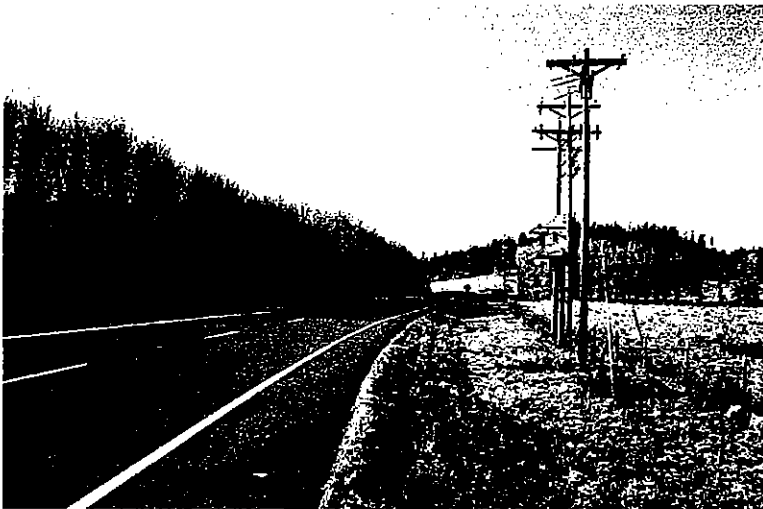
Borrower/Client	No borrower		
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500		
City	Eugene	County	Lane
State	Oregon	Zip Code	97405
Lender	Johnson, Donald W. et al c/o Steve Cornacchia		



Looking north from south property line over center of subject site

Homes in mid-distance are accessed from Schnorenberg Lane off Bailey Hill Road north of the elementary school.

See soil types map attached; this photo is taken looking north in area of little or no slope Bashaw clay, the cone shaped area in center of site.



Looking west along Spencer Creek Road from vehicle access point

LANE COUNTY AREA, OREGON — SHEET NUMBER



BARGAIN & SALE DEED

KNOW ALL MEN BY THESE PRESENTS, That we, WILLIAM A. JOHNSON and AGNES R. JOHNSON, husband and wife, owners of an undivided one-third interest in the hereinafter described property, there being no consideration for this transfer, do hereby bargain, sell and convey unto DONALD W. JOHNSON all of our right, title and interest remaining in the grantors in and to the following described real estate, to-wit:

Beginning at the Southwest corner of the Southeast Quarter of the Northwest Quarter of Section 21 of Township 18 South, Range 4 West of the Willamette Meridian, and running thence North 16.72 chains to the center of a vacated County Road; thence East along the center line of the said vacated road 34.69 chains to the center of the Bailey Hill Road; thence South 37°49' West along the center of the Bailey Hill Road, 21.17 chains to the center of the County Road; thence West along the center of the County Road, 21.71 chains to the place of beginning, containing 47.14 acres, more or less, in Lane County, Oregon.

To Have and to Hold the same unto the said grantee his heirs, successors and assigns forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 17th day of April, 1969.

60927  
APR 17 1969

William A. Johnson  
Agnes R. Johnson

STATE OF OREGON }  
COUNTY OF LANE } ss

Personally appeared the above named WILLIAM A. JOHNSON and AGNES R. JOHNSON, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

April 17th, 1969.

Robert A. Johnson  
Notary Public for Oregon  
My Commission expires: 2/16/70

## James A. Mann LLC

*Land Use Planning & Development Permit Services*

P.O. Box 51081

Eugene, Oregon 97405-0902

Telephone: (541) 514-3051 FAX: (541) 484-2761

Email: jamannllc@comcast.net

July 29, 2005

Don W. Johnson  
511 Woodson Drive  
Grants Pass, OR 97526

Subject: Report Regarding Lane County Land Use Regulations  
Map 18-04-21 Tax Lot 500 (D.W. Johnson)

Dear Don,

The purpose of this report and the attached information is to assist with a ballot Measure 37 claim for this property. This report identifies and analyzes the Lane County land use regulations that were applicable to the subject property in 1969 and the land use regulations that are applicable to the subject property today. Copies of these regulations are attached to this report. The subject property contains approximately 44.38 acres and is located about two miles SW of Eugene at the intersection of Bailey Hill Road, Spencer Creek Road, and Lorane Road. See the illustrations on the next page.

### **I. Summary of Relevant Lane County Land Use Regulations.**

On January 12, 1966, the Lane County Board of Commissioners adopted Ordinance No. 204 that first zoned the subject property and nearby areas as AGT Agriculture, Grazing, Timber Raising District. In 1969, the subject property remained zoned as AGT and was subject to the land use regulations in Sec. VI of Lane County Ordinance No. 4, as amended, that allowed:

- dwellings required to carry out agriculture, grazing or timber uses; (*Sec. VI A.2.*)
- single family dwellings, mobile homes and duplexes on corner lots in subdivisions approved by the Planning Commission; (*Sec. VI A.4.*) and,
- dwelling or mobile home lots of not less than one acre and with an average width of not less than 150 feet. (*Section VI B. Area 1.*)

Now, the subject property is under the jurisdiction of the Lane County Rural Comprehensive Plan, is designated on the plan diagram map as "Agricultural" and is zoned E40. The land use regulations for the E40 zone are in LC 16.212 that requires, for new dwellings, approval of special use permits and compliance with strict requirements for farm income and farm management, or for nonfarm dwellings. LC 16.212(9) requires, with very limited exceptions, a minimum parcel size of 40 acres for each newly created parcel.

**LAND APPRAISAL REPORT**

FILE NO. 110002  
HYPOTHETICAL

**Restricted Appraisal Report**

File No. 110805A

Borrower No borrower Census Tract 10.02 Map Reference Pitman county 47  
 Property Address Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500  
 City Eugene County Lane State Oregon Zip Code 97405  
 Legal Description Lengthy Metes and Bounds Legal Description (see deed attached or preliminary title report)  
 Sale Price \$ Not Sold Date of Sale N/A Loan Term N/A Property Rights Appraised  Fee  Leasehold  De Minimis PU  
 Actual Real Estate Taxes \$ 130.31 (yr) Loan charges to be paid by seller \$ N/A Other sales concessions Not Applicable  
 Lender/Client Johnson, Donald W. et al c/o Steve Cornacchia Address attorney, 180 East 11th Avenue, Eugene, Oregon 97401  
 Occupant Vacant Land Appraiser Craig E. McKern Instructions to Appraiser appraise to market value per USPAP standards.  
Craig E. McKern, Appraiser, P.C. 1574 Coburg Road, PMB 397, Eugene, Oregon 97401 telephone 541-345-0744 fax 541-345-0577

Location	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Good	Avg	Fair	Poor
Built Up	<input checked="" type="checkbox"/> Over 75%	<input type="checkbox"/> 25% to 75%	<input type="checkbox"/> Under 25%	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Growth Rate	<input type="checkbox"/> Fully Dev.	<input checked="" type="checkbox"/> Rapid	<input checked="" type="checkbox"/> Steady	<input checked="" type="checkbox"/> Slow	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Property Values	<input checked="" type="checkbox"/> Increasing	<input checked="" type="checkbox"/> Stable	<input type="checkbox"/> Declining	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Demand/Supply	<input checked="" type="checkbox"/> Shortage	<input checked="" type="checkbox"/> In Balance	<input type="checkbox"/> Oversupply	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Marketing Time	<input checked="" type="checkbox"/> Under 3 Mos.	<input checked="" type="checkbox"/> 4-6 Mos.	<input type="checkbox"/> Over 6 Mos.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Present Land Use	<input checked="" type="checkbox"/> 90% 1 Family	<input type="checkbox"/> 1% 2-4 Family	<input type="checkbox"/> 0% Apts.	<input type="checkbox"/> 0% Condo	<input type="checkbox"/> 1% Commercial	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/> 0% Industrial	<input type="checkbox"/> 3% Vacant	<input type="checkbox"/> 5% Public lands, uses	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Change in Present Land Use	<input type="checkbox"/> Not Likely	<input type="checkbox"/> Likely (*)	<input checked="" type="checkbox"/> Taking Place (*)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	(*) From <u>vacant/undeveloped</u> To <u>residential</u>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Predominant Occupancy	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant	<input type="checkbox"/> 5% Vacant	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Single Family Price Range	<u>\$ 150,000 to \$ 900,000+</u>		Predominant Value <u>\$ 300,000</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Single Family Age	<u>&lt;5 yrs. to 80+ yrs.</u>		Predominant Age <u>20-50 yrs.</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject area is close in to suburban south west Eugene with good access to the urban area via Bailey Hill Road and Lorane Highway. The area has developed over several decades with a wide variety of suburban residential types, ages, qualities, sizes, acreages and amenities including estates on larger, typically with views, sites. A spot convenience store, places of worship, a grange hall, elementary school grounds, various home businesses are also present

Dimensions Irregular, see plat map = 44.38 Sq. Ft. or Acres  Corner Lot  
 Zoning classification E40- Exclusive Farm Use 40 acre minimum new site Present Improvements  do  do not conform to zoning regulations  
 Highest and best use  Present use  Other (specify) potential to allow up to 10 buildable parcels under present Measure 37 procedures  
 Elec  Public  Other (Describe) Available OFF SITE IMPROVEMENTS Topo Level to slight south slope  
 Gas  Street Access  Public  Private Size Larger than typical for area  
 Water  Surface Asphalt Shape Mostly Trapezoidal  
 San Sewer  Maintenance  Public  Private View See photographs  
 Storm Sewer  Curb/Gutter Drainage Adequate; FEMA map 41039C-1625F 06-02-1999. Zone X  
 Sidewalk  Street Lights Is the property located in a HUD Identified Special Flood Hazard Area?  No  Yes

Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions): The total parcel has not been a dwelling site and there are no well, septic system or other improvements to date, the site is fenced on south, east and north sides. Access appears available from both Spencer Creek and Bailey Hill Roads. Past use of the site has been for meadow hay and pasture. Total site appraised in the "before" scenario ASSUMING ONE buildable homestead could be approved under Measure 37 provisions at a minimum; see addendums, maps, photos.

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to or more favorable than the subject property, a minus (-) adjustment is made thus reducing the indicated value of subject; if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made thus increasing the indicated value of the subject.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	Tax Lot 18-04-21-00-00500 Eugene (1 HYPO buildable site)	Tax Lots 19-04-05-00-800, 802, 803; Eugene / ask \$498,500	85880 Lorane Highway Eugene // asking \$399,000	T.L's 18-05-12-00-2400 & 2403 Eugene // asking \$695,000
Proximity to Subject		3 air miles southwest	1/2 air miles east	7 air miles northwest
Sales Price	\$ Not Sold	\$ 475,000	\$ 400,000	\$ 640,000
Price /acre		\$ 6,597	\$ 20,000	\$ 9,850
Data Source	Observation/ County	Observation/ Realtor/ County	Observation/ Realtor/ County	Observation/ Realtor/ County
Date of Sale and Time Adjustment	DESCRIPTION 12-05-2005	DESCRIPTION 09-2005 (COE)	DESCRIPTION 09-2005 (COE)	DESCRIPTION 10-2005 (COE)
Location	Above Average	Average plus +10,000	Above Average	Average plus +10,000
Site/View	44+ac m/l/ hills, valley	72+ ac/ woods/hills -56,000	20 ac/ hills, pond +72,000	64+ac / fields, wds. -60,000
Well/Septic/Permit	None/ Assumed	None/ Permitted 0	None/ Permitted 0	None/ Permitted 0
Slope/buildability	Slight/ Assumed	Rolling / Permitted +25,000	Benched/ permitted 0	Level/ 2 sites -100,000
Road/drive access	Public way/ Dirt	Public way/ gravel -20,000	Public way/ paved -20,000	Public way/ gravel -10,000
Structures	No improvements	No improvements	No improvements	No improvements
Sales or Financing Concessions	Cash to Seller Assumed	Cash	Cash	Cash
Net Adj. (Total)		<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ 41,000	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 52,000	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ 160,000
Indicated Value of Subject		Net 8.6 % \$ 434,000	Net 13.0 % \$ 452,000	Net 25.0 % \$ 480,000

Comments on Market Data: Limited recent market data for mid-sized to larger buildable parcels in subject location mainly due to 1) past partitioning of larger acreages and 2) restrictive zoning on most larger remaining acreages making these larger sites non-buildable or buildable by a special use permit only. Sale 2 is the most recent and proximate found, is on a benched ridgeline with cross valley views, one approved homestead provisions do not apply. See attached assumptions, limiting conditions. Appraised value is for subject as hypothetically buildable site with no well or septic installed but hypothetically assumed adequate and approved, utilities to the property line, no driveway installed and otherwise vacant and ready to build. Site as appraised does not exist as a buildable site at this time but could be buildable under Measure 37 procedures

Final Reconciliation: The market data (sale comparison) approach is the only reliable method of estimating vacant site value. The cost approach is omitted as there are no improvements on this hypothetically buildable site. The income approach does not normally apply to vacant land. The site as appraised is for one parcel with one single family home hypothetically permitted as a part of Ballot Measure 37 proceedings.

ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF December 5, 2005 to be \$ 450,000  
 The opinion of value stated is within a range of indicated values. Value opinion is provided for comparison purposes in a Measure 37 proceeding  
 Report Completion Date: January 26, 2006  
 Appraiser(s) Craig E. McKern Review Appraiser (if applicable) Did Did Not Physically Inspect Property

**LAND APPRAISAL REPORT**

HYPOTHETICAL

File No. 110805B

**Restricted Appraisal Report**

Borrower No borrower Census Tract 10.02 Map Reference Pittmon county 47  
 Property Address Number Not Assigned Spencer Creek Road // a hypothetical portion of Tax Lot 18-04-21-00-00500  
 City Eugene County Lane State Oregon Zip Code 97405  
 Legal Description HYPOTHETICAL PORTION OF property described on attached deed  
 Sale Price \$ Not Sold Date of Sale N/A Loan Term N/A yrs. Property Rights Appraised  Fee  Leasehold  De Minimis PUD  
 Actual Real Estate Taxes \$ 130.31 (yr) Loan charges to be paid by seller \$ N/A Other sales concessions Not Applicable  
 Lender/Client Johnson, Donald W. et al c/o Steve Cornacchia Address attorney, 180 East 11th Avenue, Eugene, Oregon 97401  
 Occupant Vacant Land Appraiser Craig E. McKern Instructions to Appraiser appraise to market value per USPAP standards.  
Craig E. McKern, Appraiser, P.C. 1574 Coburg Road, PMB 397, Eugene, Oregon 97401 telephone 541-345-0744 fax 541-345-0577

Location	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Employment Stability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Built Up	<input checked="" type="checkbox"/> Over 75%	<input type="checkbox"/> 25% to 75%	<input type="checkbox"/> Under 25%	Convenience to Employment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Growth Rate	<input type="checkbox"/> Fully Dev.	<input checked="" type="checkbox"/> Rapid	<input type="checkbox"/> Steady	Convenience to Shopping	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property Values	<input checked="" type="checkbox"/> Increasing	<input type="checkbox"/> Stable	<input type="checkbox"/> Declining	Convenience to Schools	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Demand/Supply	<input checked="" type="checkbox"/> Shortage	<input type="checkbox"/> In Balance	<input type="checkbox"/> Oversupply	Adequacy of Public Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marketing Time	<input checked="" type="checkbox"/> Under 3 Mos.	<input type="checkbox"/> 4-6 Mos.	<input type="checkbox"/> Over 6 Mos.	Recreational Facilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Present Land Use	<u>90% 1 Family</u>	<u>1% 2-4 Family</u>	<u>0% Apts.</u>	Adequacy of Utilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<u>0% Industrial</u>	<u>3% Vacant</u>	<u>5% Public lands, uses</u>	Property Compatibility	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Change in Present Land Use	<input type="checkbox"/> Not Likely	<input type="checkbox"/> Likely (*)	<input checked="" type="checkbox"/> Taking Place (*)	Protection from Detrimental Conditions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	(*) from <u>vacant/undeveloped</u> To <u>residential</u>			Police and Fire Protection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Predominant Occupancy	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant	<u>5% Vacant</u>	General Appearance of Properties	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Price Range	<u>\$ 150,000</u>	<u>to \$ 900,000+</u>	<u>Predominant Value \$ 300,000</u>	Appeal to Market	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Single Family Age	<u>&lt;5 yrs. to</u>	<u>80+ yrs.</u>	<u>Predominant Age</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<u>20-50 yrs.</u>				

Comments including those factors, favorable or unfavorable, affecting marketability (e.g. public parks, schools, view, noise): Subject area is close in to suburban south west Eugene with good access to the urban area via Bailey Hill Road and Lorane Highway. The area has developed over several decades with a wide variety of suburban residential types, ages, qualities, sizes, acreages and amenities exists including estates on larger, typically with views, sites. A spot convenience store, places of worship, a grange hall, elementary school grounds, various home businesses are also present

Dimensions 417' x 417' more or less = 173,889 Sq. Ft. or Acres  Corner Lot  
 Zoning classification E40- Exclusive Farm Use 40 acre minimum new site Present Improvements  do  do not conform to zoning regulations  
 Highest and best use  Present use  Other (specify) hypothetical four acre site as postulated under present Measure 37 procedures  
 Elec.  Available OFF SITE IMPROVEMENTS Topo Level to slight south slope  
 Gas  Street Access  Public  Private Size Typical small acres  
 Water  Surface Asphalt Shape Arbitrarily square  
 San. Sewer  Maintenance  Public  Private View See photographs  
 Underground Elect. & Tel.  Storm Sewer  Curb/Gutter Drainage Adequate; FEMA map 41039C-1625F 06-02-1999; Zone X  
 Sidewalk  Street Lights Is the property located in a HUD identified Special Flood Hazard Area?  No  Yes

Comments (favorable or unfavorable including any apparent adverse easements, encroachments, or other adverse conditions): Site as postulated is arbitrarily square and located in the far north center of the total subject site of 44+ acres. General total site soil types are mainly Class IIIe to Class IVw with small rock outcrop on knoll; soils will likely affect homesite placement and require enhanced foundation preparation plus sand filter septic systems  
Appraised value assumes one buildable site with well or community water system, driveway and utilities to site, sand filter septic approval.

The undersigned has recited three recent sales of properties most similar and proximate to subject and has considered these in the market analysis. The description includes a dollar adjustment reflecting market reaction to those items of significant variation between the subject and comparable properties. If a significant item in the comparable property is superior to or more favorable than the subject property, a minus (-) adjustment is made thus reducing the indicated value of subject; if a significant item in the comparable is inferior to or less favorable than the subject property, a plus (+) adjustment is made thus increasing the indicated value of the subject.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	<u>Tax Lot 18-04-21-00-00500</u> <u>(4 acre HYPO buildable site)</u>	<u>Adjacent to 29641 Lusk Road</u> <u>Eugene// asking \$199,900</u>	<u>Tax Lot 18-05-25-00-00403</u> <u>(partitioned)// asking \$295,000</u>	<u>Tax Lot 19-04-05-00-00808</u> <u>Eugene// asking \$199,900</u>
Proximity to Subject		<u>2 air miles south</u>	<u>3 air miles west</u>	<u>3.5 air miles southwest</u>
Sales Price	<u>Not Sold</u>	<u>\$ 199,900</u>	<u>\$ 275,000</u>	<u>\$ 190,000</u>
Price per Acre		<u>\$ 54,767</u>	<u>\$ 50,091</u>	<u>\$ 26,027</u>
Date of Sale and Time Adjustment	<u>12-05-2005</u>	<u>09-2005 (COE)</u>	<u>12-2005 (COE)</u>	<u>07-2005 (COE)</u>
Location	<u>Above Average</u>	<u>Above Average</u>	<u>Above Average</u>	<u>Average</u>
Site/View	<u>4 acres/ fields, hills</u>	<u>3.65 ac/ Wds, south</u>	<u>5.49 ac/Wds, fields</u>	<u>7.3 ac/Wds, hills</u>
Well/Septic Permit	<u>None/Assume Permit</u>	<u>None/ permitted</u>	<u>Good well / Prmtd</u>	<u>Installed /Permitted</u>
Slope/ buildability	<u>Slight/ Assumed</u>	<u>Slight/ Permitted</u>	<u>Slight/ Permitted</u>	<u>Moderate/permitted</u>
Road/drive access	<u>Public way/ Gravel</u>	<u>Public way/ Gravel</u>	<u>Public way/ Gravel</u>	<u>Private / Gravel</u>
Structures	<u>No improvements</u>	<u>No improvements</u>	<u>No improvements</u>	<u>No improvements</u>
Sales or Financing Concessions	<u>Cash to Seller</u>	<u>New Conv. Loan</u>	<u>Cash</u>	<u>Cash</u>
Net Adj. (Total)		<u>+ - \$</u>	<u>+ - \$ 30,000</u>	<u>+ - \$ 10,000</u>
Indicated Value of Subject		<u>Net % \$ 199,900</u>	<u>Net 10.9 % \$ 245,000</u>	<u>Net 5.3 % \$ 200,000</u>

Comments on Market Data: Limited recent market data for smaller parcels in the southwest suburban rural transition area of Eugene; subject's close proximity to city services, reducing commuter time and expense, leads to good or better marketability versus other more outlying areas of west Lane County. Sale 1 requires no adjustments; compare site size and slope/view/utility to Sale 3 but Sale 3 is accessed via a steep\*\*\*\*

Comments and Conditions of Appraisal: The appraisal is made to cash equivalency per USPAP and FIRREA guidelines and USPAP departure provisions do not apply. See attached assumptions, limiting conditions and comments. Site as appraised does not exist and this report is useful only for hypothecating values for Ballot Measure 37 purposes.\*\*\*\* private gravel road to low ridgetop shared by 4 other similar sites out of a 40 acre partitioned parcel; given least weight. Sale 2 is recently partitioned, has good wooded and open field view appeal, 40 gpm well installed.

Reconciliation: The market data (sale comparison) approach is the only reliable method of estimating vacant site value. The cost approach is omitted as there are no improvements on this hypothetically buildable site. The income approach does not normally apply to vacant land. The site as appraised is for one hypothetical parcel with one single family home hypothetically permitted as a part of Ballot Measure 37 proceedings.

I ESTIMATE THE MARKET VALUE, AS DEFINED, OF SUBJECT PROPERTY AS OF December 5, 2005 to be \$ 230,000  
 The opinion of value stated is within a range of indicated values. Value opinion is provided for comparison purposes in a Measure 37 proceeding  
 Report Completion Date: January 26, 2006  
 Appraiser(s) Craig E. McKern  Did  Did Not Physically Inspect Property  
 Review Appraiser (if applicable)

Borrower/Client	No borrower		
Property Address	Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500		
City	Eugene	County	Lane
State	Oregon	Zip Code	97405
Lender	Johnson, Donald W. et al c/o Steve Cornacchia		

#### Appraisal Development and Reporting Process:

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

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

#### Scope of Work:

In preparing this report, the appraiser observed the subject site on December 5, 2005. Relevant information on comparable land and improved site sales, were also gathered, verified and considered. All three approaches to value were considered; the sales comparison approach only was developed. The cost approach does not apply to unimproved land.

The income approach does not typically apply to vacant or farm land. The subject site is utilized for farm use however the income stream from such a use is not generally high enough or durable enough to justify an income approach as most all purchasers of the subject would be either farmers, in the case of no building site permitted, or owner occupants with potential to lease the hay and pasture acreage in the case of becoming a buildable site by virtue of Measure 37 proceedings.

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

The purpose of this appraisal report is to estimate the market value as defined on the attached certification/limiting conditions addendum included with the 1004 form and in the attached USPAP addendum.

This appraisal report is intended ONLY for the use of the client named for the purpose of establishing a fair market value by an independent third party for Measure 37 proceedings. The use of this report is restricted to the clients, Donald W. Johnson, an owner, and his legal counsel, Steve Cornacchia, for this purpose only. Duly constituted Lane County committees or courts for Measure 37 proceedings are also an expected reader of this report but Lane County is not a client of the appraiser.

This report in its present configuration is not intended for any financing purpose whatsoever.

Any other authorized use of this report will be stated either below or in the letter of engagement.

The appraiser is not and will not become responsible for any unauthorized use. Errors and omissions insurance is not extended to a future third party lender and the appraiser must be notified, timely and in writing, of any future transfer/assignment of this report to any third party.

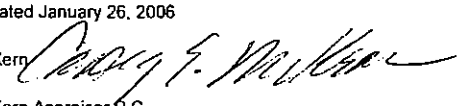
#### Supplemental Certifications:

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

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

signed and dated January 26, 2006

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





Borrower No borrower File No. 110805A  
 Property Address Number Not Assigned Spencer Creek Road // Tax Lot 18-04-21-00-00500  
 City Eugene County Lane State Oregon Zip Code 97405  
 Lender Johnson, Donald W. et al c/o Steve Comacchia

**APPRAISAL AND REPORT IDENTIFICATION**

This appraisal conforms to one of the following definitions:

- Complete Appraisal (The act or process of estimating value, or an opinion of value, performed without invoking the Departure Rule.)
- Limited Appraisal (The act or process of estimating value, or an opinion of value, performed under and resulting from invoking the Departure Rule.)

This report is one of the following types:

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

**Comments on Standards Rule 2-3**

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

The statements of fact contained in this report are true and correct.  
 The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.  
 I have no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.  
 I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.  
 My engagement in this assignment was not contingent upon developing or reporting predetermined results.  
 My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.  
 My analyses, opinions and conclusions were developed and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.  
 I have made a personal observation of the property that is the subject of this report.  
 No one provided significant real property appraisal assistance to the person signing this certification.

A lengthy period passed between the date of inspection and the date of completion as the appraiser performed a variety of investigations on Measure 37 and its ramifications for the subject property. There is no guarantee from the appraiser that the attached report(s) will be found fully satisfactory to the Lane County jurisdiction for handling Measure 37 claims, as these requirements may change due to court ordered or Legislature passed modifications. Recently, a Circuit Court court in Marion County held that Measure 37 as written was unconstitutional for various judicial reasons. This ruling is being appealed to the State Supreme Court.

**Comments on Appraisal and Report Identification**

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

This appraisal report is complete on the basis of the full site observation, not the extent of commentary attached.  
 The appraised value includes a realty fee as did the sale prices of the comparables, unless otherwise stated.

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

See attached supplemental addendum. This report has been prepared for use in a State Measure 37 proceeding and is restricted to that use only. See the cover letter page for brief explanations of the use and purpose of this report 110805A in conjunction with report 110805B which is for a smaller hypothetical parcel out of the 44 acres more or less of the report in hand in order to provide "before and after" scenarios. The actual legality, validity and application of State Measure 37 is still in question with present and future court and Legislature involvements a certainty.

**APPRAISER:**

Signature: *Craig E. McKern*  
 Name: Craig E. McKern  
 Date Signed: January 26, 2006  
 State Certification #: CR00024  
 or State License #: \_\_\_\_\_  
 State: Oregon  
 Expiration Date of Certification or License: 09-30-2006

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

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Date Signed: \_\_\_\_\_  
 State Certification #: email: cem9th@msn.com  
 or State License #: phone 541-345-0744/fax 541-345-0577  
 State: \_\_\_\_\_  
 Expiration Date of Certification or License: \_\_\_\_\_

Did  Did Not Inspect Property