

W. I. S. e.



Memorandum Date: September 13, 2006
Order Date: September 20, 2006

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 (PA06-6028, PATTISON)

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 Jesse and Elaine Pattison to use the property as allowed at the time they acquired an interest in the property?

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Applicant: Jesse and Elaine Pattison

Current Owner: Jesse and Elaine Pattison

Agent: Steve Cornacchia

Map and Tax lots: 16-08-06 #202

Acreage: 43 acres

Current Zoning: F2 (Impacted Forest)

Date Property Acquired: May 30, 1972, and August 16, 1973.

Date claim submitted: June 7, 2006. The 180-day processing deadline is December 4, 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 claimant's property: LC 16.211 F2 (Impacted Forest)

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 \$350,000 or a waiver of the F2 (Impacted Forest) zone regulations that prohibit the division of the property into lots containing less than 80 acres and construction of a dwelling on each lot.

E. Analysis

The claimant has submitted information in support of this claim including an appraisal, deeds and the processing fee. The property contains approximately 43 acres and is zoned F2. In this zone, the minimum lot size is 80 acres and new dwellings require a special use permit. The claimant wishes to subdivide the property into lots that contain less than 80 acres and place a dwelling on each lot.

Michael Pattison acquired an interest in a portion of the property on May 30, 1972 (WD 1571). Michael Pattison acquired an interest in the remainder of the property on August 16, 1973 (WD 7540289). On those dates, the property was unzoned. On May 6, 1987, Michael Pattison changed his name to Jesse Pattison. No evidence has been submitted that identifies when Elaine Pattison acquired an interest in the property. Because of that, it is difficult to determine the validity of this claim for Elaine Pattison.

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

Michael Pattison acquired an interest in a portion of the property on May 30, 1972 (WD 1571). Michael Pattison acquired an interest in the remainder of the property on August 16, 1973 (WD 7540289). On those dates, the property was unzoned. On May 6, 1987, Michael Pattison changed his name to Jesse Pattison. Currently, the property is zoned F2 (Impacted Forest), the minimum parcel size is 80 acres and new dwellings require a special use permit. The minimum parcel size and restrictions on new dwellings prevent Jesse Pattison from developing the property as could have been allowed when he acquired an interest in the property.

Reduction in Fair Market Value

The claimant has submitted an appraisal as evidence of a reduction in value. The alleged reduction is \$350,000. 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 for Jesse Pattison.

Exempt Regulations

The F2 (Impacted Forest) limitations on new dwellings, and the minimum parcel size of 80 acres do not appear to be exempt regulations described in Measure 37 or LC 2.710.

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 claimant must receive a similar waiver from the state before a land use application and/or development proposal is submitted.

VI. RECOMMENDATION

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

VII. FOLLOW-UP

If the order is adopted, it will be recorded.

VII. ATTACHMENTS

- Draft order to approve the claim of Michael/Jesse Pattison.
- Vicinity Map.
- Claim submitted on June 7, 2006.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY,
OREGON**

ORDER No.) IN THE MATTER OF CONSIDERING A
) BALLOT) MEASURE 37 CLAIM AND
) DECIDING WHETHER TO MODIFY, REMOVE
) OR NOT APPLY RESTRICTIVE LAND USE
) REGULATIONS IN LIEU OF PROVIDING JUST
) COMPENSATION (PA06-6028/ Pattison)

WHEREAS, the voters of the State of Oregon passed Ballot Measure 37 on November 2, 2004, which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowners if a government land use regulation restricts the use of private real property and has the effect of reducing the property value; and

WHEREAS, the Board of County Commissioners of Lane County enacted Ordinance No. 18-04 on December 1, 2004, to establish a real property compensation claim application process in LC 2.700 through 2.770 for Ballot Measure 37 claims; and

WHEREAS, the County Administrator has reviewed an application for a Measure 37 claim submitted by Jesse Pattison, also known as Michael Pattison, (PA06-6028), the owner of real property located at 94300 Deadwood Creek Road, Deadwood, and more specifically described in the records of the Lane County Assessor as map 16-08-06, tax lot 202, consisting of approximately 43 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 20, 2006, the Board conducted a public hearing on the Measure 37 claim (PA06-6028) of Jesse Pattison and has now determined that the restrictive F2 (Impacted Forest) zone dwelling and land division requirements of LC 16.211 were enforced and made applicable to prevent Jesse Pattison from developing the property as might have been allowed at the time he acquired an interest in a portion of the property on May 30, 1972, and the remainder on August 16, 1973, and that the public benefit from application of the current F2 dwelling and

division land use regulations to the applicants' property is outweighed by the public burden of paying just compensation; and

WHEREAS, Jesse Pattison requests either \$350,000 as compensation for the reduction in value of his property, or waiver of all land use regulations that would restrict the division of land into lots containing less than eighty 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 F2 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 Jesse Pattison 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; and

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

NOW, THEREFORE IT IS HEREBY ORDERED that the applicant Jesse Pattison, also known as Michael Pattison, 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 an interest in the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but in lieu of payment, the request of Jesse Pattison shall be granted and the restrictive provisions of LC 16.211 that limit the development of dwellings and the division of land in the F2 (Impacted Forest) Zone shall not apply to Jesse Pattison, so he can make application for approval to develop the property located at 94300 Deadwood Creek Road, Deadwood, and more specifically described in the records of the Lane County Assessor as map 16-08-06, tax lot 202, consisting of approximately 43 acres in Lane County, Oregon, in a manner consistent with the land use regulations in effect when he acquired an interest in a portion of the property on May 30, 1972, and in the remainder on August 16, 1973.

IT IS HEREBY FURTHER ORDERED that Jesse Pattison still needs to make application and receive approval of any division of the property or placement of a dwelling under the other land use regulations applicable to dividing the property or placing a dwelling that were not specifically identified or established by Jesse Pattison as restricting the division of the property or placement of a dwelling, and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the dwelling or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of 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 she 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 Jesse Pattison does not constitute a waiver or modification of state land use regulations and does not authorize immediate division of the subject property or immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1225 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml>) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

IT IS HEREBY FURTHER ORDERED that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to divide or build dwellings can be transferred to another owner. If the ruling of the Marion County Circuit Court in *MacPherson v. Dept. of Administrative Services*, (Marion County Circ. Ct. Case No. 00C15769, October 14, 2005) or any other court decision involving Ballot Measure 37 becomes final and that decision or any subsequent court decision has application to Lane County in a manner that affects the authority of this Board to grant relief under Ballot Measure 37 and LC 2.700 through 2.770 then the validity and effectiveness of this Order shall be governed by LC 2.770 and the ruling of the court.

DATED this _____ day of _____, 2006.

Bill Dwyer, Chair
Lane County Board of County Commissioners

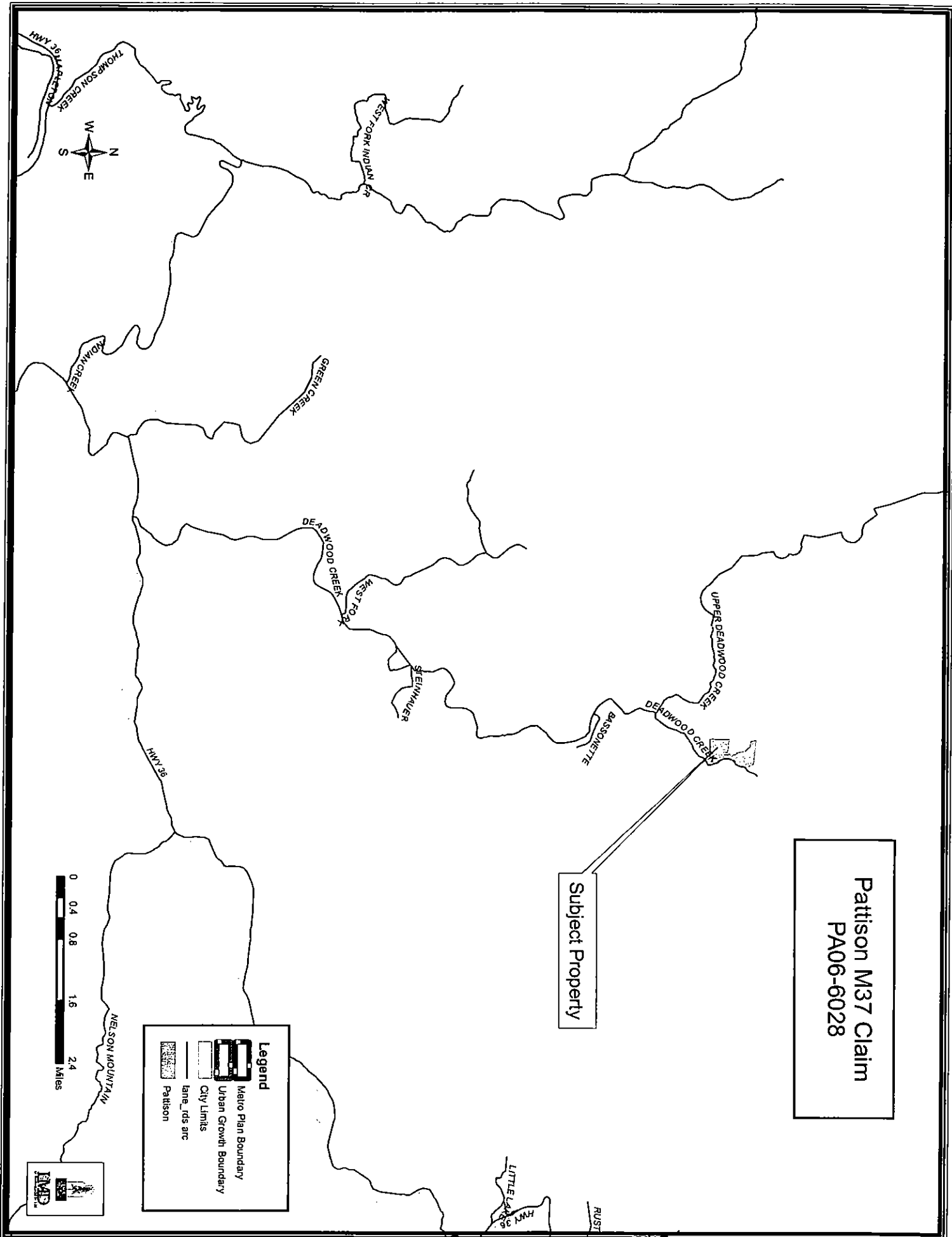
APPROVED AS TO FORM

Date 9-13-2006 Lane County


OFFICE OF LEGAL COUNSEL

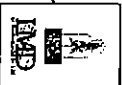
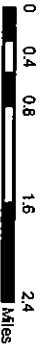
Pattison M37 Claim
PA06-6028

Subject Property



Legend

- Metro Plan Boundary
- Urban Growth Boundary
- City Limits
- lane_rds arc
- Pattison



Measure 37 Claim Number: M37-**Application for Claims Under LC 2.700 through 2.770**

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

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

1. Applicant/ Agent

<u>John and Elaine Pattison</u>	<u>94300 Deadwood Creek Road</u>	<u>(541)964-7409</u>
Applicant Name (Please Print)	Mailing Address <u>Deadwood, OR 97430</u>	Phone
<u>Steve Cornacchia</u>	<u>180 E. 11th Avenue, Eugene, OR 97401</u>	<u>(541) 686-8511</u>
Agent Name (Please Print)	Mailing Address	Phone

2. Property Owner

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

<u>Jesse and Elaine Pattison</u>	<u>Same as above</u>	<u>same as above</u>
Property Owner Name (Please Print)	Mailing Address	Phone
<u>Property Owner Name (Please Print)</u>	<u>Mailing Address</u>	<u>Phone</u>

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 16-08-06 TL 202Street Address 94300 Deadwood Creek Road, Deadwood, OR 97430Legal 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, E, and L of attached narrative.

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 K of attached narrative

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: \$350,000

Waiver: Use and lot restrictions preventing construction of habitable structures for commercial use on parcels less than 80 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).

Jesse Lucky Pattison
Elaine Marie Pattison

Owner(s) Signature

05/16/06
Date

HERSHNER HUNTER

By: Steve Tompkins
Applicant/Agent Signature

05/31/06
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.

BALLOT MEASURE 37 CLAIM

1. INTRODUCTION.

The applicants, Jesse L. and Elaine M. Pattison, claim that Lane County's enforcement of land use regulations that restrict the use of their property has reduced the fair market value of their property. The applicants are 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 them just compensation for the reduction in the fair market value of their 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 applicants request that Lane County waive the offending regulations, as provided hereinbelow, that prevent them from placing habitable structures on the subject property and thereafter using them for commercial purposes (retreat/resort use).

Jesse (Michael) Pattison obtained interests in the subject property on May 30, 1972, and on August 16, 1973, in the name of Michael L. Pattison, and has owned the subject property continuously since that time. On May 6, 1987, Michael L. Pattison legally changed his name to Jesse L. Pattison. Elaine M. Pattison is married to Jesse Pattison and received her undivided one-half interest in the subject property from Jesse Pattison subsequent to August 16, 1973. The subject property was not zoned, or otherwise regulated relative to use, by Lane County on May 30, 1972, and on August 16, 1973, the dates that applicant Jesse Pattison obtained his interest in the subject property.

The property is zoned Impacted Forest (F2). That zoning, as applied by LC 16.211, will not permit land divisions below 80 acres in size for the resulting parcels, will not allow more than one habitable structure thereon and will not allow the subject parcel to be used for commercial purposes.

2. BACKGROUND INFORMATION.

2.1 General Site Description.

The property subject to this application consists of an irregular-shaped parcel, the northern approximately 43 acres of Tax Lot 202, Assessor's Map No. 16-0806, and located adjacent to the west side of Deadwood Creek Road, and approximately 11 miles north of the unincorporated rural community of Deadwood, Oregon.

The subject property is described as a portion of Tax Lot 202 of Lane County Assessor's Map No. 16-08-06.

The subject property receives the following public services: Mapleton School District No. 32 (schools); Emerald Peoples Utility District (electrical power); Western Lane Ambulance; 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. 16-08-06
- Exhibit B - Legal Description
- Exhibit C - Lane County Application Form
- Exhibit D - Fleming Warranty Deed
- Exhibit E - Harwood Warranty Deed
- Exhibit F - Lane County Official Zoning Map Plot 091
- Exhibit G - Ordinance No. 884
- Exhibit H - Ordinance No.'s 3-72, 6-72, 14-72 and 24-72
- Exhibit I - Ordinance No. 9-73
- Exhibit J - Ordinance No. 5-04
- Exhibit K - Appraisal Reports prepared by Craig E. McKern, Certified Real Estate Appraiser
- Exhibit L - Certificate of Change of Name

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 applicants are the present owners 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 applicants are the owners of the subject property, free and clear of all encumbrances. The name, mailing address and phone number of the applicants are:

Jesse L. Pattison and Elaine M. Pattison, 94300 Deadwood Creek Road, Deadwood, OR 97430, (541) 964-7049.

The applicants' names, mailing address and phone number are also provided in the Lane County application form attached hereto. The applicants have signed the application form attached hereto as Exhibit C.

The applicants are the owners of the subject property. Jesse L. Pattison obtained his interest in the subject property on May 30, 1972, and on August 16, 1973, in the name of Michael L. Pattison. On May 30, 1972, he obtained his interest in a portion of the subject property from Leslie Fleming, by Warranty Deed. A copy of the Fleming deed to Mr. Pattison is attached as Exhibit D. On August 16, 1973, he obtained his interest in a portion of the subject property from Oscar and Nora Harwood, by Warranty Deed. A copy of the Harwood deed to Mr. Pattison is attached as Exhibit E. On May 6, 1987, Michael L. Pattison legally changed his name to Jesse L. Pattison. A copy of the Certificate of Name Change issued by the Lane County Circuit Court is attached as Exhibit L. Elaine M. Pattison is the wife of Jesse L. Pattison and she obtained her interest in the subject property subsequent to the date that Mr. Pattison obtained his interest in it.

The applicants have provided the requisite evidence to demonstrate that they are the true owners of the subject property and that the applicant Jesse L. Pattison has had an interest in the subject property since May 30, 1972, and August 16, 1973.

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 16-08-06. The subject property is the approximately 43 northern acres of Tax Lot 202 of 16-08-06. 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 Impacted Forest (F2) as depicted on Lane County Official Zoning Map Plot 091, adopted by Lane County as part of Ordinance 884 on February 29, 1984. A copy of Plot 091 is attached as Exhibit F and a copy of the relevant portions of Ordinance 884 is attached as Exhibit G. In addition to Ordinance 884, the primary land use regulations that restrict the use of the subject property are found in Lane Code 16.211. The provisions of Lane Code 16.211 require a minimum area requirement of eighty acres for the creation of new lots or parcels in the Impacted Forest Zone on property designated as F2 on Lane County Zoning Maps. Those Lane Code provisions also do not allow commercial use on the subject property. Those Lane Code provisions and Zoning Map Plot 091 prevent the applicant from partitioning or subdividing his property into parcels less than 80 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. Those Lane Code Provisions and Zoning Map Plot 091 also prevent the applicant from placing habitable structures on the subject property for commercial use and from using the property in a commercial manner including, but not limited to, retreat and resort services.

On May 30, 1972, and on August 16, 1973, Lane County regulated subdivision development of the subject property with Chapter 13 of Lane Code that included the following adopted ordinances:

- Ord. No. 3-72, enacted on February 9, Reel 60, Pages 113-118 and Reel 60, Pages 245-277;
- Ord. No. 6-72, enacted on March 1, 1972, Reel 60, Pages 534, 541 and 542;
- Ord. No. 14-72, enacted on July 12, 1972, Reel 63, Pages 394-396; and
- Ord. No. 24-72, enacted on December 20, 1972, Reel 66, Pages 23 and 30-33.

A copy of relevant portions of the aforementioned ordinances are attached as Exhibit H.

On August 15, 1973, the Lane County Board of Commissioners enacted Ordinance No. 9-73 that included LC 9.700-.765 for unzoned areas. LC 9.710 required approval of unzoned area development permits for certain development or uses, including:

- (17) "More than five dwelling units per lot or parcel or contiguous lots or parcels under the same ownership.
- (29) "Preliminary major subdivision applications as defined by Chapter 13."

A copy of relevant portions of Ordinance No. 9-73 is attached as Exhibit I.

As previously mentioned, on February 29, 1984, Lane County adopted Ordinance 884 which repealed all prior plan and zone designations on the subject property and further restricted the applicants' use of the property subsequent to their acquisition of it by designating it on the Rural Comprehensive Plan diagram map as "Forest" and rezoning it as Impacted Forest (F2), which it remains today.

The Lane County Board of Commissioners enacted Ordinance No. 5-04 on June 2, 2004. Ordinance No. 5-04 contains the current provisions of Lane Code 16.211 for the F2 zone. Those provisions allow only a single dwelling to be placed on the property pursuant to a variety of criteria and standards and require, with a few narrow exceptions, a minimum area of 80 acres for

newly created parcels. LC 16.211 does not allow commercial use of the subject property. A copy of the relevant portions of Ordinance No. 5-04 is attached as Exhibit J.

If the aforementioned current Lane County regulations did not exist, or were consistent with provisions of Lane County regulations preceding August 16, 1973, the value of the applicants' property would be considerably higher if divided into parcels less than 80 acres in size with commercial use as an outright permitted use rather than remaining in its current configuration with the aforementioned parcel size and use restrictions in place.

In addition to Ordinance 884, Zoning Map Plot 091 and LC 16.211, 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 smaller parcels with commercial use permitted thereon. Mr. McKern's appraisals are attached hereto as Exhibit K.

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 Impacted Forest (f2) as depicted on Lane County Official Zoning Map Plot 091, 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 contained in Lane Code 16.211 which prohibit commercial use of the subject property and which requires a minimum area requirement of eighty acres for the creation of new lots or parcels in the Impact Forest Zone on property designated as F2 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, Zoning Map Plot 091 and Lane Code 16.211 were adopted subsequent to applicants obtaining their 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 16.211 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 \$350,000, which sum represents the reduction in market value of the subject property resulting from Lane County's enforcement of the aforementioned regulations that prohibit the commercial use of the property and which prohibit land divisions to parcels less than 80 acres in size.

According to Mr. McKern's appraisal, the total fair market value of the subject property before the application of the aforementioned challenged land use regulations is \$700,000. Mr.

McKern's appraisal is conservative, limited by his appraisal of the property as if containing twelve dwelling sites for guest or rental use. 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 \$350,000. The reduction in fair market value of the subject property resulting from Lane County's restrictions on its use totals at least \$350,000, the amount of the claim herein.

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

Response:

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

4. CONCLUSION.

The applicants have demonstrated that Lane County's enforcement of Ordinance 884 and provisions of LC 16.211 restricts their use of the subject property to impacted forest use on 80-acre minimum parcel sizes and that the restrictions reduce the fair market value of the property from what it would be if commercial use on parcels less than eighty acres in size was allowed. The applicants have demonstrated compliance and consistency with the provisions added to ORS Chapter 197 by Ballot Measure 37 and LC 2.700. Accordingly, the applicants' claim for just compensation for the reduction in the fair market value of their 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.

FOR ASSESSMENT
AND TAXATION
ONLY

SEC. 6 T.16S. R.8W. W.M.
LANE COUNTY

SCALE 1" = 400'

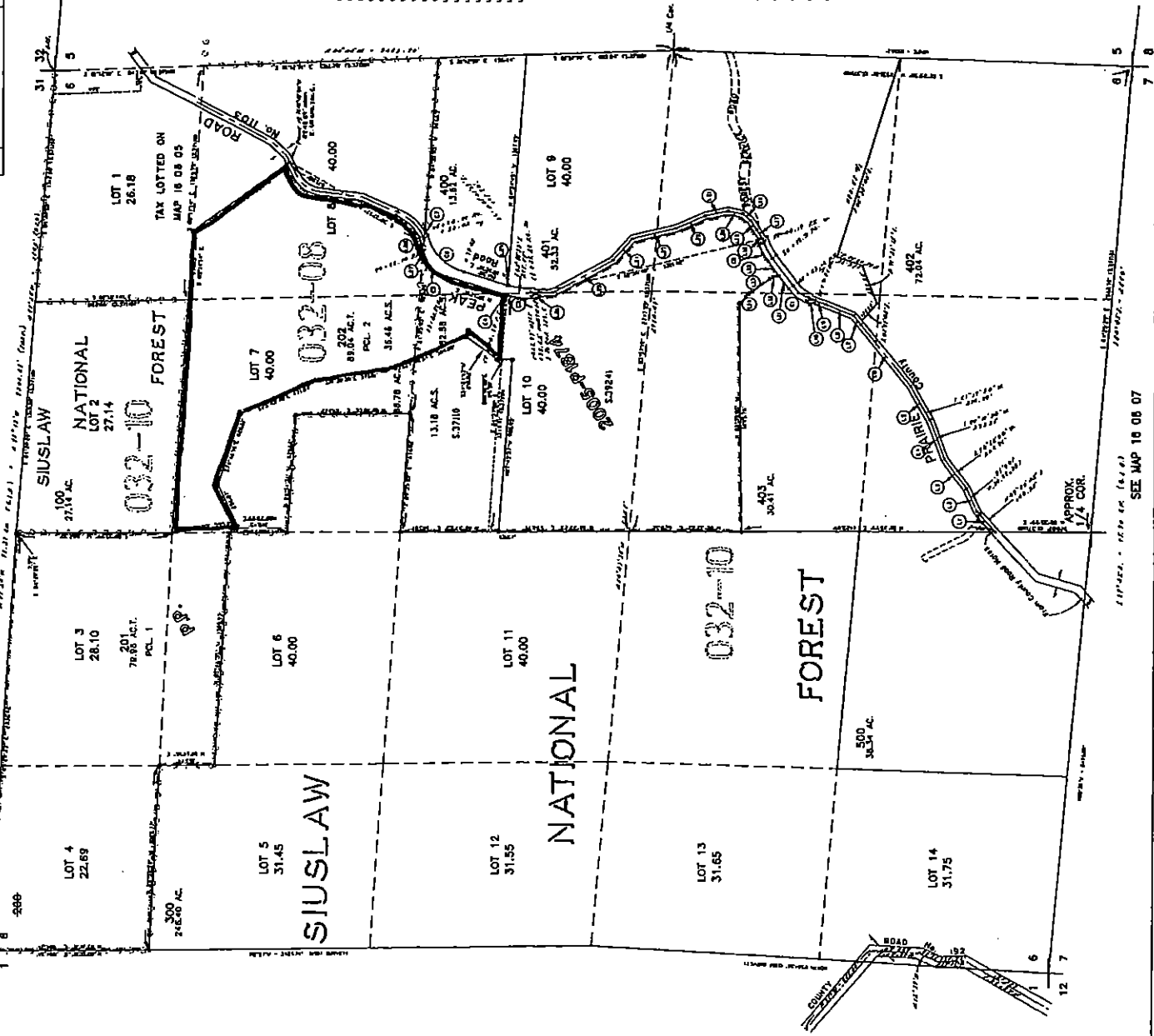
SEE MAP 15 08

NAD 83/91

16 08 06

NO.	DESCRIPTION	AMOUNT	TAX RATE	TOTAL TAX
1	LAND			
2	IMPROVEMENTS			
3	ADDITIONAL TAXES			
4	TOTAL TAX			

CANCELLED
200



LINE TABLE

1	SECTION 6
2	SECTION 7
3	SECTION 8
4	SECTION 9
5	SECTION 10
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88	SECTION 93
89	SECTION 94
90	SECTION 95
91	SECTION 96
92	SECTION 97
93	SECTION 98
94	SECTION 99
95	SECTION 100

SEE MAP 16 08 08

CURVE TABLE

1	SECTION 6
2	SECTION 7
3	SECTION 8
4	SECTION 9
5	SECTION 10
6	SECTION 11
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8	SECTION 13
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16 08 06

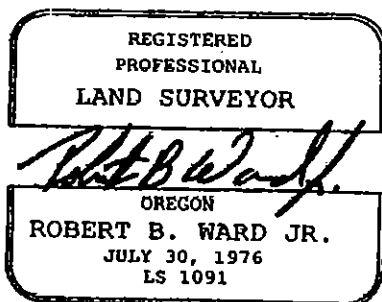
EXHIBIT A

SEE MAP 16 09

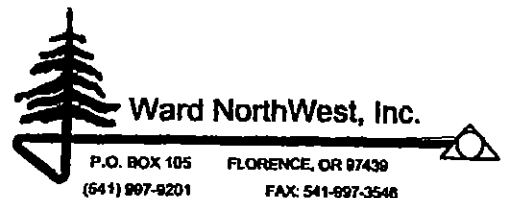
SEE MAP 18 08 07

DESCRIPTION OF NORTHERLY PORTION OF PARCEL 2
 PARTITION PLAT NO. 2005-P1874
 AS REQUESTED BY JESSE PATTISON
 5-19-2006

BEGINNING AT THE CENTER 1/4 CORNER OF SECTION 6, TOWNSHIP 16 SOUTH RANGE 8 WEST, W.M., LANE COUNTY, OREGON, SAID TRUE POINT OF BEGINNING BEING MONUMENTED BY A USFS ALUMINUM CAP DATED 1983; THENCE ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 6, NORTH 2°33'23" WEST A DISTANCE OF 692.71 FEET TO A POINT BEING THE SAME AS AP-9 OF PARTITION PLAT NUMBER 2005-P1874, LANE COUNTY, OREGON; THENCE LEAVING SAID NORTH-SOUTH CENTERLINE SOUTH 87°43'37" EAST, A DISTANCE OF 980.95 FEET TO A POINT BEING THE SAME AS AP-8 OF SAID PARTITION PLAT; THENCE NORTH 0°00'00" EAST, A DISTANCE OF 89.50 FEET TO A POINT BEING THE SAME AS AP-7 OF SAID PARTITION PLAT SAID AP-7 ALSO BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 34°24'13" EAST, A DISTANCE OF 210.82 FEET TO A POINT BEING THE SAME AS AP-6 OF SAID PARTITION PLAT; THENCE NORTH 24°40'54" WEST, A DISTANCE OF 504.00 FEET TO A POINT BEING THE SAME AS AP-5 OF SAID PARTITION PLAT; THENCE NORTH 10°30'38" WEST, A DISTANCE OF 371.81 FEET TO A POINT BEING THE SAME AS AP-4 OF SAID PARTITION PLAT; THENCE NORTH 25°45'40" WEST, A DISTANCE OF 471.67 FEET TO A POINT BEING THE SAME AS AP-3 ON SAID PARTITION PLAT; THENCE NORTH 74°46'16" WEST, A DISTANCE OF 426.01 FEET TO A POINT BEING THE SAME AS AP-2 OF SAID PARTITION PLAT; THENCE SOUTH 63°28'39" WEST, A DISTANCE OF 256.87 FEET TO A POINT BEING THE SAME AS AP-1 OF SAID PARTITION PLAT; THENCE NORTH 8°28'18" WEST, A DISTANCE OF 395.24 FEET TO THE CENTER 80 1/16 CORNER SAID CORNER BEING MONUMENTED WITH A USFS ALUMINUM CAP DATED 1983; THENCE SOUTH 88°22'46" EAST, A DISTANCE OF 1330.48 FEET TO THE 80 EAST 1/16 CORNER, SAID CORNER MONUMENTED WITH A USFS ALUMINUM CAP DATED 1983; THENCE SOUTH 88°22'46" EAST A DISTANCE OF 390.05 FEET; THENCE SOUTH 38°17'02" EAST A DISTANCE OF 663.72 FEET TO A POINT IN THE CENTERLINE OF THE PRAIRIE PEAK COUNTY ROAD NUMBER 1103 AS TRAVELED; THENCE ALONG THE CENTERLINE OF SAID ROAD AS TRAVELED TO A POINT ON THE CENTERLINE OF THE NORTHERLY END OF PARCEL NO. 2 AS CONVEYED TO LANE COUNTY IN DEED RECORDED ON MARCH 27, 1984 AT REEL 239D, RECEPTION NO. 49150, LANE COUNTY OREGON DEED RECORDS, IN LANE COUNTY, OREGON, THE SAID POINT BEING SOUTH 27°28'45" WEST A DISTANCE OF 871.55 FEET FROM THE LAST DESCRIBED POINT; THENCE ALONG THE NORTHERLY, WESTERLY AND SOUTHERLY LINE OF SAID PARCEL NO. 2, NORTH 87°43'37" WEST A DISTANCE OF 73.94 FEET; THENCE SOUTH 68°21'15" WEST A DISTANCE OF 21.47 FEET; THENCE ALONG A 189.16 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS SOUTH 41°09'46" WEST, A DISTANCE OF 173.40 FEET) AN ARC LENGTH OF 180.13 FEET; THENCE SOUTH 15°03'39" WEST A DISTANCE OF 347.55 FEET; THENCE LEAVING SAID WESTERLY BOUNDARY OF PARCEL 2, NORTH 89°26'16" WEST, A DISTANCE OF 367.36 FEET TO SAID AP-7 ALSO BEING THE TRUE POINT OF BEGINNING, ALL IN LANE COUNTY, OREGON.



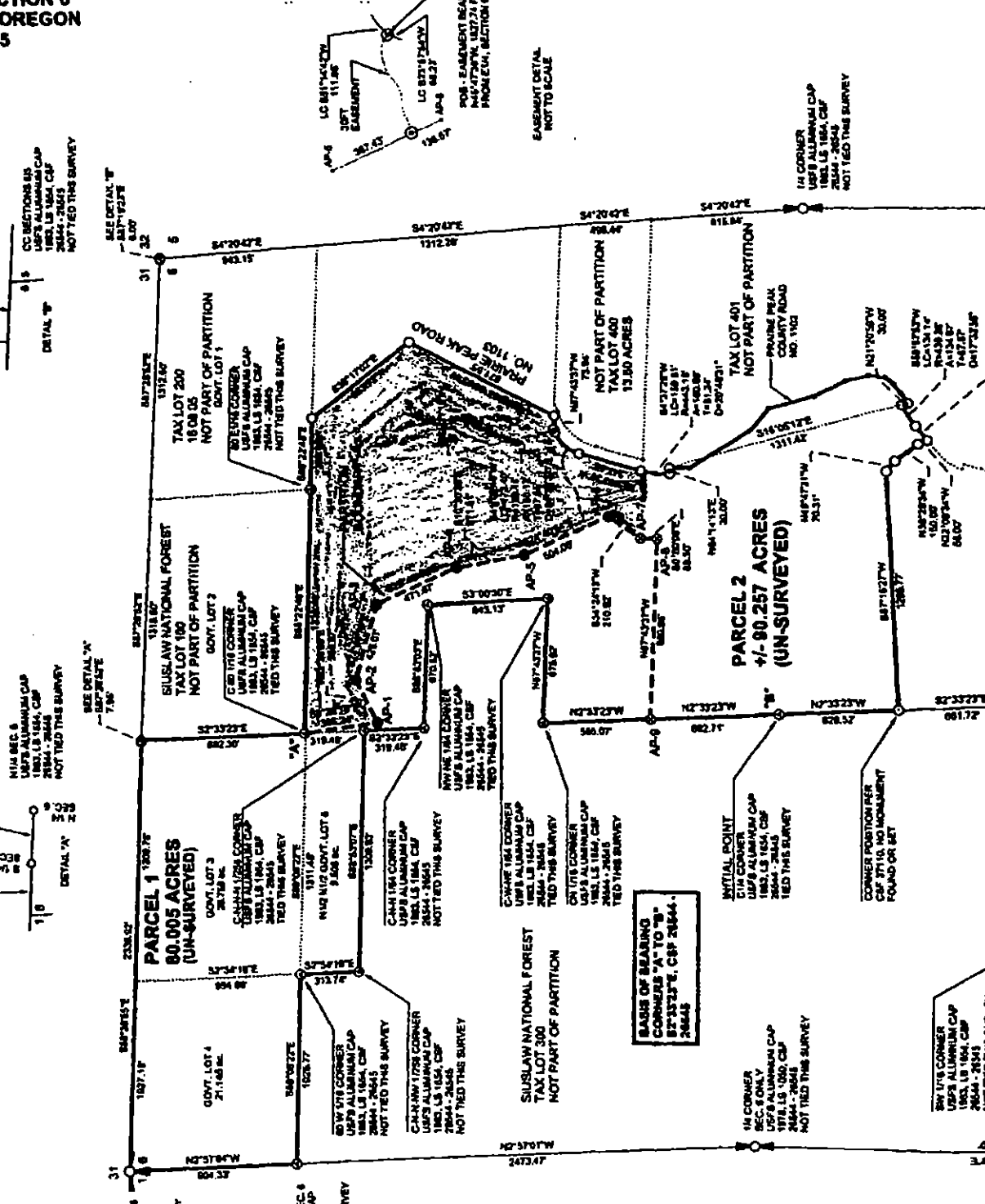
EXPIRES: 6/30/06



**FINAL PARTITION PLAT
FOR: JESSE & ELAINE PATTISON
T16S R08W SECTION 6
LANE COUNTY, OREGON
3-15-2005**

LAND PARTITION PLAT NUMBER **2005-028498**

ADDITIONAL PLAT NOTES:
APPROVAL OF THIS PARTITION DOES NOT ENSURE THAT PARCEL 1 QUALIFIES AS A HOME SITE. A DWELLING OR MOBILE HOME IS NOT GUARANTEED UNLESS THE APPLICABLE ZONING PROVISIONS FOR OBTAINING A DWELLING OR MOBILE HOME ARE MET.
ALL DEVELOPMENT SHALL COMPLY WITH THE LANE COUNTY CLASS I STREAM RIPARIAN REGULATIONS.
AN APPROVED SEWAGE DISPOSAL SITE AND COMPLIANCE WITH THE ZONING AND STATEWIDE PLANNING GOALS WILL BE REQUIRED AT THE TIME OF DEVELOPMENT OF A RESIDENCE ON PARCEL 1.



Division of Chief Deputy Clerk
Lane County Deeds and Records
2005-028498
\$61.00
00007814200000204000010011
04/21/2005 01:34:28 PM
RPR-PRRT Cnt1 Stx5 CASHIER 04
\$40.00 \$10.00 \$11.00

WARRANTY DEED

"A"

LESLIE FLEMING

the grantor , does hereby grant, bargain, sell and convey unto MICHAEL L. PATTISON

the grantee , the following described premises, to-wit:

Lots 1, 3 and 8, the North one-half of the North one-half of Lot 6, the North one-half of Lot 7, the Southeast quarter of Lot 7, and Lot 4, Section 6, and Lot 4 in Section 5, Township 16 South, Range 8 West of the Willamette Meridian, in Lane County, Oregon.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee , his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee , that he is the owner in fee simple of said premises; that they are free from all incumbrances except easements, conditions and restrictions of record,

and that he will warrant and defend the same from all lawful claims whatsoever.

The true and actual consideration for this transfer is \$ 28,000.00.

The foregoing recital of consideration is true as I verily believe.

Dated: May 30 , 1972.

(SEAL) *Leslie Fleming* (SEAL)

(SEAL) LESLIE FLEMING (SEAL)

STATE OF OREGON, COUNTY OF LANE, ss: -

On this 30 day of May 1972 personally came before me, a Notary Public in and for said county, the within named

Leslie Fleming

to me personally known to be the identical person described in and who executed the within instrument, and acknowledged to me that he 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.

[Signature]
Notary Public in and for Oregon

State of Oregon,
County of Lane—ss.

J. D. M. Peckel, 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

1972 MAY 31 AM 11 32 D

Reel 5888
Lane County OFFICIAL RECORDS.

D. M. PECKEL, Director of the Department of Records & Elections.

By *[Signature]* Deputy
C23-003-01

202

1571

My Commission Expires May 1973
2022 261C-111

"B"

FOR VALUE RECEIVED OSCAR V. HARWOOD and NORA E. HARWOOD, husband and wife,

herein referred to as grantors, hereby grant, bargain, sell, and convey unto MICHAEL L. PATTISON and ONA L. PATTISON, husband and wife,

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

Lots 9 and 10, and the Southeast 1/4 of Section 6, Township 16 South, Range 8 West of the Willamette Meridian, in Lane County, Oregon.

TO HAVE AND TO HOLD the said premises unto said Grantees, their heirs and assigns forever. And the said Grantors hereby covenant that they are lawfully seized in the simple of said premises; that they are free from all incumbrances, except 1973-74 taxes, easements, rights and rights of way of record

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

The true and actual consideration for this transfer is \$ 130,000.00

Dated August 16 19 73

(Seal) Oscar V. Harwood (Seal)

(Seal) Nora E. Harwood (Seal)

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

OSCAR V. HARWOOD and NORA E. HARWOOD, husband and wife,

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

Dated August 16 A.D. 19 73
Notary Public for Oregon

7540289

Compliments of
CASCADE TITLE COMPANY
Eugene, Oregon
WARRANTY DEED

State of Oregon,
County of Lane—ss.
I, D. M. Penfold, 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

1973 SEP 18 PM 2 34

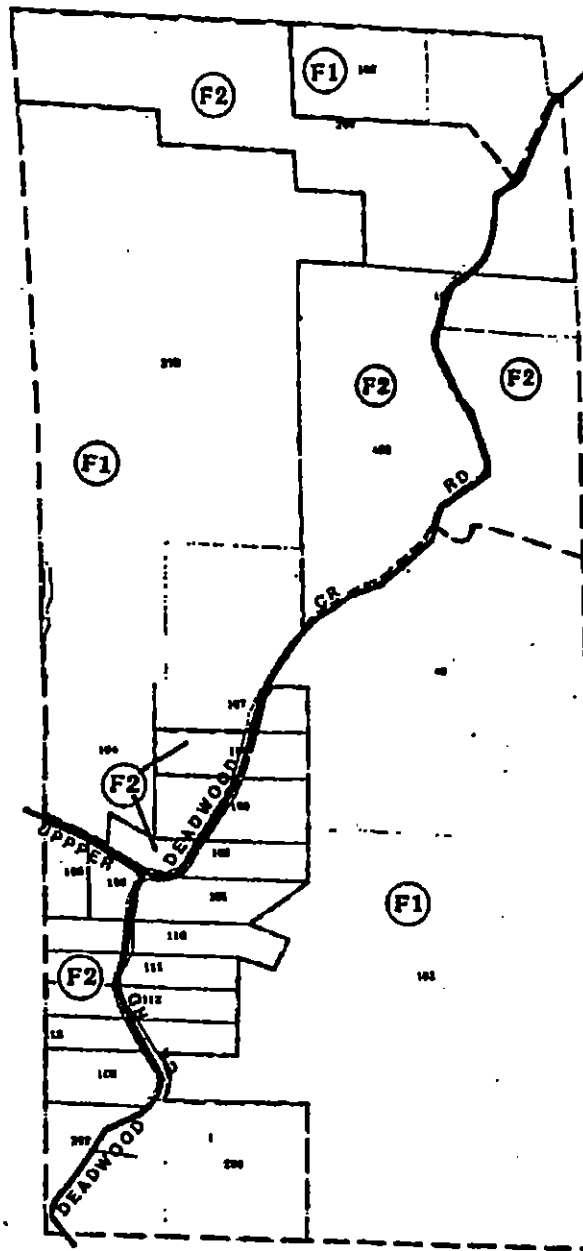
Reel 760 R
Lane County OFFICIAL RECORDS.
D. M. PENFOLD, Director of the
Department of Records & Elections.
By: *[Signature]*
Deputy
C 29-083-05

3.00

CASCADE TITLE COMPANY

087

095



091A



lane county



OFFICIAL ZONING MAP

PLOT# 091

Township Range Section

16 08 06

16 08 07

ORIGINAL ORD. # PA 884

DATE 2/29/1984 FILE #

REVISION # 1 ORD. # PA 903

DATE 8/14/85 FILE #

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 29th 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)

PLAN DESIGNATIONS

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

CC

CC

(91)

C

16 E

835.842

Y COORDINATE
916.160

831.640

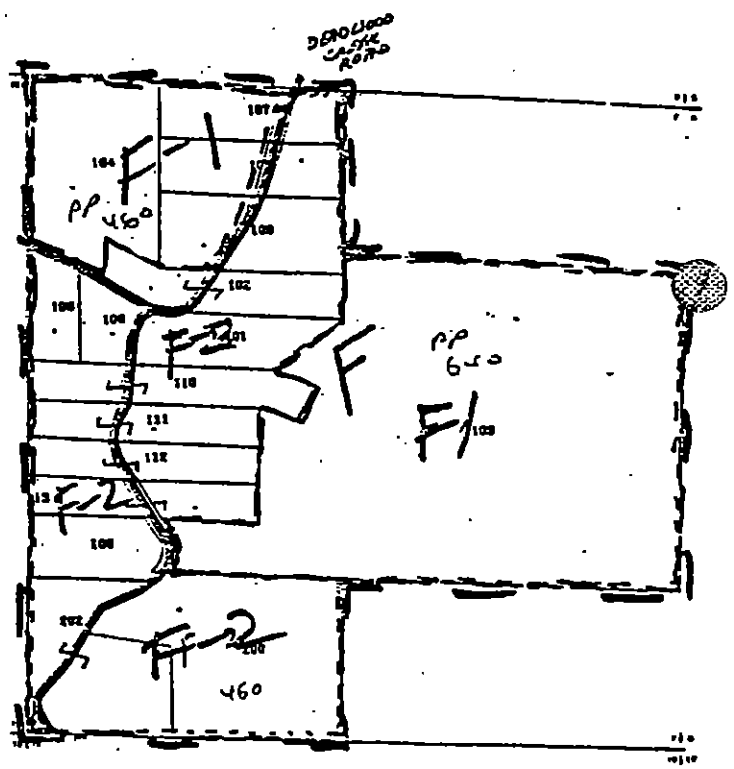
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8/10/82

104507

SEE

87



FILED
AT _____ O'CLOCK _____ M.

FEB 10 1972

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

D. M. FENFOLD, Director of the
Dept. of Revenue and Finance of Lane County
BY *[Signature]*
DEPUTY

ORDINANCE NO. 3-72

) AN ORDINANCE ENACTING THE LANE CODE
) AS THE LAW OF LANE COUNTY AND REPEALING
) CERTAIN LANE COUNTY ORDINANCES OF A
) GENERAL AND PERMANENT NATURE.

The County of Lane does ordain as follows:

Section 1. Adoption of Lane Code. The provisions of a published document marked and designated as the Lane Code, and attached hereto and marked as Exhibit "A", are hereby enacted as the general and permanent law of the County of Lane.

Section 2. Code Provisions as Law. The provisions of the Lane Code adopted in Section 1 of this ordinance are the law in the County of Lane and are not merely prima facie evidence of the law.

Section 3. Effective Date of Lane Code. The provisions of this ordinance and the Lane Code take effect 12:01 a.m. the 10th day of February, 1972.

Section 4. Repeal of Existing General Ordinances. The following Lane County general ordinances are hereby repealed: *

1-63	4-67	11-69	12-70	12-71
2-63	3-68	12-69	13-70	13-71
3-63	11-68	14-69	17-70	14-71
4-63	15-68	1-70	25-70	15-71
5-63	3-69	2-70	27-70	16-71
6-63	5-69	4-70	4-71	17-71
9-64	6-69	5-70	8-71	19-71
5-65	10-69	6-70	11-71	20-71
				21-71

Ordinance Nos.: 2, 7, 23, 39, 40, 116, 153

Lane County Revised Subdivision Ordinance dated 5/2/62.

* For convenience, the following cross-reference table lists the repealed ordinances and the code chapters into which they have been incorporated:

Chapter 2 -	General	1-63, 2-63, 5-63;
-	Personnel Adm.	6-63, 3-68, 11-71;
-	Elections	3-63, 4-63, 1-70, 2-70.
Chapter 3		13-71.
Chapter 5 -	Infractions	
	Procedure	4-71, 14-71;
-	Infractions	
	Specific	3-69, 12-71, 16-71, 19-71.
Chapter 6		4-67, 20-71, 21-71.
Chapter 9		5-65, 17-70, 5-71.
Chapter 11		10-69, 12-69, 6-70, 8-71, 17-71.
Chapter 12		5-70.
Chapter 13		15-68, 6-69, 12-70, 13-70.
Chapter 15		11-69, 4-70, 27-70.

Section 5. General Savings Provision.

(1) This ordinance and the Lane Code shall not affect rights and duties that matured, penalties that were incurred and proceedings that were begun before the effective date of Section 3 of this ordinance.

(2) The repealing provisions of this ordinance and the provisions of the Lane Code shall not affect or impair any act done, offense committed or liability, penalty, forfeiture or punishment incurred before the effective date of Section 3 of this ordinance.

Section 6. Continuity of Existing Provisions.

(1) The provisions of the Lane Code that are the same in substance as ordinance provisions of the County that are in effect immediately before the code becomes effective are construed as restatements and continuations of the prior provisions.

(2) Nothing in this ordinance or in the Lane Code affects the status of a lawful nonconforming use.

(3) For purposes of adoption of the Lane Code, the members of the county planning commission, and members of all other county offices, official positions, boards or commissions created under an ordinance repealed by this ordinance shall continue to hold office for the period of time specified in the repealed ordinance.

(4) A person who holds a license, permit, right or privilege granted under an ordinance repealed by this ordinance may continue to operate under and use such license, permit, right or privilege until expiration thereof according to the terms of the ordinance under which the license, permit, right or privilege was issued, unless the same is revoked sooner by the Board of County Commissioners.

Section 7. Emergency Clause. 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, an emergency is declared to exist and this

ordinance shall take effect immediately upon being enacted.

Enacted this 9th day of February, 1972.

APPROVED AS TO FORM
DATE 1-26-72
<i>Ken Phillips</i>
OFFICE OF COUNTY COUNSEL

Ken E. Cawley
 Chairman of the Board of County
 Commissioners of Lane County

Billy Winter
 Recording Secretary of the Board at the
 meeting at which this ordinance was
 enacted

L A N E C O D E

Exhibit "A"

Lane Code

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Chapter 13

SUBDIVISION

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Chapter 13

SUBDIVISION

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Chapter 13

SUBDIVISIONGeneral

13.005

Definitions. For the purposes of this chapter, the following words and phrases shall mean:

Alley. A minor way for vehicular traffic which is used primarily for service access to the back or side of property abutting a street.

Arterial. A street which is used primarily for through traffic, or which by its location will likely be needed for such use in the normal growth of the community.

Block length. The distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right-of-way, water course, body of water or unsubdivided acreage.

Board. Board of County Commissioners as defined in section 11010.

Business street. Any block length along any street, other than an arterial within which there is or will be provided access to one or more commercial structures which in the judgment of the Planning Commission will result in a high volume of business traffic on such street.

Butt lot. A lot, the lot side line of which abuts the lot rear line of two or more adjoining lots.

Collector street. A street other than an arterial which is used primarily for carrying traffic to one or more arterials.

Corner lot. A lot two or more connecting sides of which abut a street.

Cul-de-sac. A dead-end street which, in the opinion of the Planning Commission, will never practicably be extended so as not to be a dead-end street.

Division of land. Creation of a lot.

Double frontage lot. A lot two or more nonconnecting sides of which abut a street.

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Drainage land. Land required for drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein, to safeguard the public against flood damage or the accumulation of surface water.

Final plat. A plat for a major subdivision duly submitted to the secretary of the Planning Commission for Planning Commission consideration and approval and conforming in all respects to the requirements therefor specified in section 13.060(6).

Finished plat. A plat for a minor subdivision duly submitted to the secretary of the Planning Commission for Planning Commission consideration and approval and conforming in all respects to the requirements therefor specified in section 13.045 (2).

Key lot. A lot the lot rear line of which abuts the lot side line of two or more adjoining lots.

Land committee. The Land Development Review Committee created pursuant to section 13.025.

Local street. A street which is used primarily for access to abutting properties.

Lot. A parcel or portion of land separated from other land in a lease or transfer of ownership or by a drawing on a duly approved final plat or finished plat for separate individual use or separate use in immediate or future building development.

Lot front line. The lot line abutting a street, for corner lots the front line shall be that with the narrowest street frontage, and for double frontage lots the lot front line shall be that lot line having frontage on a street which is so designated by the subdivider and approved by the Planning Commission.

Lot rear line. The lot line which is opposite to and most distant from the lot front line.

Lot side line. A lot line which is not a lot front line or lot rear line.

Major subdivision. A subdivision which is not a minor subdivision.

Master road plan. The plan or plans in chapter 15 adopted by the board in accordance with section 13.065 (1) (c).

Minor subdivision. A subdivision of land any part of which is within urbanizing area and which:

(a) results in not more than three lots fronting on an existing street;

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(b) does not create any new street or require the widening of any existing street;

(c) does not impede the future highest and best use of the remainder of the tract under the same ownership or adversely affect the safe and healthful development of such remainder of any adjoining land or access thereto, in the judgment of the Planning Commission; and

(d) is not in conflict with any law or ordinance applicable to the land being subdivided.

Owner. An individual, association, partnership or corporation having legal or equitable title to land sought to be subdivided, other than legal title held for the purpose of security only.

Performance agreement. A performance bond executed by a surety company duly licensed to do business in the state in an amount equal to the full cost of the work to be done and conditioned upon the faithful performance thereof in accordance with section 13.135.

Planning Commission. The Lane County Planning Commission.

Preliminary plat. A tentative map and plan for a major subdivision duly submitted to the secretary of the Planning Commission for Planning Commission consideration and approval and conforming in all respects to the requirements specified in section 23.060 (2).

Single family density area. An area abutting a local street not a business street where for one block length or more all property on both sides of said street is or as determined by the Planning Commission, will be occupied by no more than nine (9) families per acre exclusive of street right-of-way.

Statutory subdivision. A subdivision as defined in ORS 92.010.

Street. A public street, avenue, boulevard, lane, road, parkway, highway, or other public way, other than an alley, for use of vehicular traffic, and includes the land between the right-of-way lines whether improved or unimproved.

Subdivide. To effect a subdivision.

Subdivider. An owner commencing proceedings under this chapter to effect a subdivision of land by himself or through his lawful agent.

Subdivision. A division of land; except that the following division of land shall not be deemed a subdivision where no new street is created:

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(a) A division of land for use for agricultural purposes, where each resulting lot is five (5) acres or larger in size, has a width of not less than 300 feet for the entire length between the lot front line and lot rear line, and has frontage of not less than 300 feet on a street, provided that such street has a right-of-way width of not less than 50 feet and not less than such width as may be called for in chapter 15.

(b) Either:

(1) an exchange of land between owners of adjoining property, or

(2) the division of no more than one lot in a recorded plat so as to add land to one or more lots existing as originally recorded on such plat, so that no resulting tract under the same ownership, if used or to be used for other than commercial purposes, shall have less than any of the dimensional requirements as set forth in section 13.080 (1) (a).

(c) A division of land which would be a minor subdivision but for the fact that no part of the area being subdivided is within urbanizing area.

Subdivision area. That part of land proposed to be subdivided which is, or which the subdivider intends will be, described on a single final plat or finished plat in accordance with sections 13.045 (2) (b) (3) or 13.060 (6) (b) (1).

Urbanizing area. All of the area in the county outside the boundaries of incorporated cities, in the following U.S. Government Sections:

Township 16 South, Range 4 West, Willamette Meridian, Sections 31 through 36;

Township 17 South, Range 1 West, Willamette Meridian, Sections 31 and 32;

Township 17 South, Range 2 West, Willamette Meridian, Sections 19 through 23, and 26 through 36;

Township 17 South, Range 3 West, Willamette Meridian, Sections 6 through 10 and 14 through 36;

Township 17 South, Range 4 West, Willamette Meridian, Sections 1 through 36;

Township 17 South, Range 5 West, Willamette Meridian, Sections 11 through 14 and 23 through 26 and Sections 35 and 36;

Township 18 South, Range 2 West, Willamette Meridian, Sections 2 through 10, 15 through

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22. Sections 27 through 30, and
 Sections 32 and 34;
 Township 18 South, Range 3 West, Willamette
 Meridian, Sections 1 through 24;
 Township 18 South, Range 4 West, Willamette
 Meridian, Sections 1 through 6 and
 9 through 14;
 Township 18 South, Range 5 West, Willamette
 Meridian, Sections 1 and 2;
 Township 20 South, Range 1 West, Willamette
 Meridian, Sections 19 through 26;
 Township 21 South, Range 3 West, Willamette
 Meridian, Sections 1 through 18.

13.010

Authority: The following rules, regulations and standards relating to the subdivision of land in the county, and the following procedures to be followed by subdividers, the Planning Commission, the Land Development Review Committee, and the board are adopted pursuant to ORS 215.010 (2) and 215.190, and the charter.

13.015

Purpose: The purpose of this chapter is to provide rules, regulations and standards to govern the approval of plats of subdivisions and also of partitioning of land by creation of a street or way, to carry out the development pattern and plan of the county and to promote the public health, safety and general welfare, lessen congestion in the streets, secure safety from fire, flood, pollution and other dangers, provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewerage, drainage, recreation and other needs of the people of the county, and to prescribe procedures to be followed in submitting plans and plats of subdivisions for approval.

13.020

Approval of Subdivisions Required

(1) No person shall create a street or way for the purpose of partitioning a parcel of land without the approval of the body authorized to give approval of plats for subdivisions; under the provisions of this chapter

(2) No person shall dispose of, transfer or sell any lot or parcel of land in a minor subdivision with respect to which approval is required by this chapter until such approval is obtained.

(3) No person shall dispose of, transfer, sell or advertise, agree or negotiate to sell any lot or parcel of land in any major subdivision with respect to which approval is required by this chapter until such approval is obtained, and the plat thereby has been acknowledged and recorded with the county recording officer.

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to the inch, and shall be so selected as to fit the finished drawing to a sheet size 8-1/2 inches by 11 inches.

(b) Information required. The finished plat shall contain the following information with respect to the subdivision area:

(i) An accurate map describing the boundaries of all contiguous land within which lots less than five acres in size or less than 300 feet in width at any point will be created by the finished plat, provided that the Planning Commission may authorize the exclusion of any such land where it determines that such exclusion will be in accordance with the purpose of this chapter.

(ii) The date, north point and scale of the drawing, and a sufficient description to define the location and boundaries of the subdivision area.

(iii) The names and addresses of the owner, subdivider and engineer or surveyor.

(iv) The location, name and present width of all streets and alleys.

(v) The location of existing or projected right-of-way lines for existing or projected streets as shown on the Master Road Plan in chapter 15.

(vi) The width and location of all easements for drainage or public utilities.

(vii) The dimensions and lot lines of all lots.

(viii) The existing use or uses of the property, including the location of all existing structures to remain on the property.

(3) Review of Finished Plat by Land Committee. Within two days after a finished plat is duly submitted under section 13.045 (1), the secretary of the Planning Commission shall distribute copies thereof to the members of the Land Committee and to such other agencies or individuals as he may deem appropriate. Members of the committee shall submit to the secretary and the subdivider a written statement with respect to any matters or information they deem necessary for the subdivider's or public's benefit at least two days prior to the meeting at which the committee is scheduled to consider the plat.

(4) Action on Finished Plat.

(a) Consideration of finished plat. The Land Committee shall consider the finished plat at a regular public meeting not less than seven (7) full days after the finished plat is submitted under section 13.045 (1). The Land Committee shall determine whether the plat conforms to the requirements of this chapter, all applicable platting laws of the state, the county zoning ordinance, chapters 11 and 12 of this code, and all other applicable laws and

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regulations. Based upon this determination, the plat shall be approved, conditionally approved, or disapproved by a majority of the entire membership of the Land Committee.

(b) Limitation of conditional approval. All conditions shall be performed within one (1) year of the date of conditional approval. Upon failure to perform the conditions within such time, the secretary of the Planning Commission shall forward the finished plat to the subdivider without further action. To thereafter obtain approval, the subdivider shall resubmit the finished plat to the Planning Commission under section 13.045 (f). The reviewing body will not be bound by its prior determination.

13.050

Appeal on Finished Plat.

(1) Appeal to the Planning Commission. If the subdivider or any member of the Land Committee is dissatisfied with the action of the committee with respect to a minor subdivision finished plat, he may, within fifteen (15) days after such action by the Land Committee, appeal in writing to the secretary of the Planning Commission for reconsideration. The Planning Commission shall consider the appeal and the basis for the Land Committee action at its regularly scheduled meeting after receipt of such appeal by the secretary, and shall approve, conditionally approve, or disapprove the plat based upon the commission's determination as to its conformity with the requirements provided in section 13.045 (4).

(2) Appeal to the Board. If any person filing a finished plat is dissatisfied with the action of the Planning Commission, he may appeal said action to the board, as provided in sections 13.165 to 13.185.

13.055

Notification of All Action and Return of Finished Plat.

(1) The secretary of the Planning Commission shall notify the subdivider of all action taken on the final plat by the Land Committee, Planning Commission or the board within five (5) days of such action and shall note the nature of the action and the date thereof on the plat.

(2) If a plat receives conditional approval, notice of such conditions shall be sent to the subdivider within five (5) days of such action. When the conditions have been fulfilled or, in the case of improvements, when a performance agreement in sufficient amount to assure completion has been filed with and accepted by the board, the secretary of the Planning Commission shall so certify by appropriate endorsement upon the finished plat and said information shall be forwarded to the subdivider.

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13.060 Major Subdivisions.

(1) Submitting Preliminary Plat. A preliminary plat for a major subdivision shall be submitted by the subdivider to the secretary of the Planning Commission. Said plat shall be a transparency suitable for reproduction.

(2) Preliminary Plat Requirements.

(a) Drafting. The preliminary plat shall show all pertinent information to scale. The drawing shall be on standard size sheets 18 inches by 27 inches and at a scale of one inch equals 100 feet. The scale may be increased or decreased if necessary to fit the drawing to the required plat size of 18 inches by 27 inches, but in all cases the scale shall be standard, being 10, 20, 30, 40, 50, or 60 feet to the inch or multiples of ten of any one of these scales.

(b) Information required. The preliminary plat shall in clear and legible form, include the following information with respect to the proposed subdivision area, on the map where practicable, and otherwise on separate sheets of paper in written statement:

(i) The proposed name of the proposed subdivision area, which shall conform to the standards set forth in ORS 92.090.

(ii) The date, north point and scale of the drawing, and a sufficient description to define the location and boundaries of the proposed subdivision area, and the names of all recorded plats of land contiguous to such area.

(iii) The names and addresses of the owner and engineer or surveyor.

(iv) The location of existing and proposed right-of-way lines for existing or projected streets as shown on the Master Road Plan in chapter 15.

(v) The locations, names, widths, and typical improvement cross-sections of all streets, existing or proposed to be created, and the grades of existing streets, and the estimated finished grades of streets proposed to be created.

(vi) The elevations of all points used to determine contours correctly shown, and the base data thereof used by the surveyor, having the following intervals:

One foot contour intervals for ground slopes up to 5%.

Two foot contour intervals for ground slopes between 5% and 10%.

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Five foot contour intervals for ground slopes exceeding 10%.

(vii) The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be imposed by the Planning Commission under section 13.065 (3).

(viii) The approximate dimension of all proposed lots.

(ix) The approximate radii of all curves.

(x) The approximate location of areas subject to inundation or storm water overflow, and all areas covered by water, and the location, width, and direction of flow of all water courses.

(xi) The existing and proposed uses of the property, including the location of all existing structures which the subdivider intends will remain in the proposed subdivision area.

(xii) The domestic water system proposed to be installed, including the source, quality and quantity of water if from other than a public water supply.

(xiii) All proposals for sewage disposal, flood control, and easements or deeds for drainage land, including profiles of proposed drainage ways.

(xiv) All public area proposed to be dedicated by the subdivider and the proposed uses thereof.

(xv) All improvements proposed to be made or installed, and the time within which such improvements are proposed to be completed.

(xvi) A legal description of the boundaries of the entire tract owned by the subdivider of which the proposed subdivision area is a part; provided that where the proposed subdivision area comprises all of such tract an affidavit of such fact shall accompany the preliminary plat.

(3) Review of Preliminary Plat by Land Committee. Within two (2) days after a preliminary plat is duly submitted under section 13.060 (1), the secretary of the Planning Commission shall distribute copies to members of the Land Committee and to such other agencies or individuals as he may designate. Members of the committee shall submit to the secretary and the subdivider written statements with respect to any matters or information they deem necessary for the benefit of the subdivider or the public at least two (2) days prior to the meeting at which the committee is scheduled to consider the plat for recommendation to the Planning Commission. At its meeting on the preliminary plat, the Land Committee shall determine whether

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the plat conforms to the requirements of this chapter, all applicable platting laws of the state, the county zoning ordinance, chapters 11 and 12 of this code, and all other applicable laws and regulations. Based on this determination, the Land Committee shall submit a report and recommendation on the plat to the Planning Commission. The subdivider shall be notified promptly, in writing, of the Land Committee's recommendations.

(4) Planning Commission Action on Preliminary Plat

(a) Consideration of preliminary plat. The Planning Commission shall consider the preliminary plat and the reports and recommendations thereon from the Land Committee and others at a regular meeting not less than fifteen (15) full days after the preliminary plat has been submitted. The Planning Commission shall determine whether the plat conforms to the requirements of this chapter, all applicable platting laws of the state, the county zoning ordinance, chapters 11 and 12 of this code, and all other applicable laws and regulations. Based upon this determination, the plat shall be approved, approved conditionally, or disapproved by a majority of the entire membership of the Planning Commission.

(b) Notification of action on preliminary plat. Within five (5) days following consideration by the Planning Commission of a preliminary plat, the subdivider shall be notified in writing by the secretary of the Planning Commission of the commission's action.

(c) Review of preliminary plat. Within ten (10) days following the action by the Planning Commission on a preliminary plat, the board shall review said plat and action.

(d) Appeal to or hearing by board. Action on the preliminary plat shall be deemed final fifteen (15) days after the action of the Planning Commission unless within said fifteen (15) day period either:

(i) the subdivider appeals the action of the Planning Commission to the board as provided in sections 13.165 to 13.185, or

(ii) the board elects to hold a hearing on the preliminary plat.

(e) Procedure for hearings by the board on preliminary plats. When the board elects to hold a hearing on a preliminary plat, the secretary of the Planning Commission shall, within ten (10) days from the date of said Planning Commission action, notify the subdivider in writing stating the board's intent to hold a hearing and the reason for their action. The procedure shall be as provided in sections 13.175 to 13.180.

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(f) Effect of approval. After approval of the preliminary plat, the subdivider may proceed with final surveying, subdivision construction and preparation of the final plat. Approval shall be effective for a period of one year, and if the final plat is not submitted to the secretary of the Planning Commission under section 13.060 (5) within such time, the preliminary plat shall be submitted again under section 13.060 (1) and the entire procedure provided thereafter shall be repeated.

(5) Submitting Final Plat and Other Materials.

(a) Time for submitting. A final plat shall be submitted by the subdivider to the secretary of the Planning Commission no later than one year after the date on which the preliminary plat for the subdivision area was approved, together with an exact copy meeting the requirements of section 13.060 (5) (b). No final plat may be submitted for consideration and approval unless a preliminary plat for the subdivision area described has previously been duly submitted by such subdivider and approved by the county as provided in this chapter.

(b) Submission of exact copy. At the same time of submission of the final plat, an exact copy shall be submitted which is made with black drawing ink or photocopy, or reproduced by a process guaranteeing a permanent record in black upon a good quality linen tracing cloth, or with a suitable black acetate base ink on a stable polyester base film coated upon completion with a suitable material to prevent flaking and to assure permanent legibility to the same scale and degree of legibility as the plat. The engineer or surveyor who made the plat shall make an affidavit to indicate that the cloth or film copy is an exact copy of the plat.

(c) Traverse computation sheets. The registered engineer or licensed land surveyor signing the surveyor's affidavit on the final plat shall submit traverse computation sheets for the use of the county surveyor in checking the final plat, which sheets shall include the calculation of each course and distance by latitude and departure of all the boundary lines and of all lot lines in the subdivision area, and for all boundaries and all lots in the final plat which are not completely rectangular in shape. Each course and distance, and each latitude and departure, shall be tabulated on the traverse computation sheet in the proper order to show the closure limits of each area, and rectangular coordinates of every angle point shall be

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extended and shown from a single meridian and from a single point of origin.

(d) Covenants. At the discretion of the secretary of the Planning Commission, a copy of any deed restriction, conditions, or covenants, existing or proposed for the subdivision, shall accompany the final plat.

(6) Final Plat Requirements.

(a) Drafting. The final plat shall be drawn in black India ink on good quality, white, cold pressed, double mounted drawing paper 18 inches by 24 inches with muslin extending 3 inches at the left end for binding purposes. The final plat shall be of such a scale, and the lettering of the approvals thereof, and of the dedication and affidavit of the surveyor, shall be of such size or type as will permit the whole thereof to be placed upon one single sheet of paper. The error of closure shall not exceed 1 foot in 4,000 feet. No part of the drawing shall be nearer to the edge of the sheet than one inch. All of the final plat shall be on one side of the sheet except that dedication or other written matter may be on the other side.

(b) Information required. The final plat shall, in clear and legible form, contain the following information with respect to the subdivision area:

(i) An accurate map describing the boundaries of all contiguous land in which lots less than five acres in size or less than 300 feet in width at any point will be created by the final plat; provided that the Planning Commission may authorize the exclusion of any such land where it determines any such exclusion will be in accordance with the purpose of this chapter.

(ii) The length of all chords, radii points of curvature, and tangent bearings.

(iii) The lot lines of all lots within the subdivision area, with dimensions in feet and hundredths of feet and with all bearing shown.

(iv) Numbers designating each block and lot; lots in each block to be numbered consecutively.

(v) Where the plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.

(vi) The description and location of all permanent reference monuments.

(vii) An affidavit of a surveyor, who is an Oregon registered engineer or Oregon licensed land

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surveyor, and who surveyed the subdivision area, conforming to the requirements of ORS 92.070.

(viii) The date, north point and scale of the drawing, and a sufficient description to define the location and boundaries of the subdivision area.

(ix) The locations, names and widths of all streets, existing or being created.

(x) The width and location of all existing easements for public utilities, and such easements being created, and also all reserve strips required by the Planning Commission under section 13.065 (3).

(xi) A designation of all areas covered by water, and the location, width, and direction of flow of all water courses.

(xii) A designation of all area being dedicated by the subdivider, including its proposed use, and an effective written dedication thereof.

(7) Review of Final Plat. Within two (2) days after a final plat is duly submitted under section 13.060 (5), the secretary of the Planning Commission shall distribute copies thereof to the members of the Land Committee and to such other agencies or individuals as he may deem appropriate. Members of the committee shall submit to the secretary and the subdivider written findings with respect to conformity of the final plat with the requirements of section 13.060 (8) at least two days prior to the meeting at which the committee is scheduled to consider the plat as required by section 13.060 (8).

(8) Action on Final Plat.

(a) Consideration of final plat by Land Committee.

(i) The Land Committee shall consider the final plat at a regular public committee meeting not less than seven (7) full days after the final plat is submitted under section 13.060 (5).

(ii) If a majority of the members of the Land Committee determines that the final plat substantially conforms to the approved preliminary plat and complies with the applicable platting laws of the state and with this chapter, they shall so indicate and return the plat to the secretary of the Planning Commission for approval subject to the procedure provided in section 13.060 (8) (d).

(iii) If the Land Committee determines that the final plat does not substantially conform to the approved preliminary plat, or that it does not comply with this chapter or applicable platting laws of this state, it shall report such conclusion to the Planning Commission, a copy of which shall be sent

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to the subdivider. The matter of the approval of the final plat shall then automatically be referred to the Planning Commission.

(b) Consideration of final plat by Planning Commission upon negative report of Land Committee. Plats automatically referred to the Planning Commission upon a negative report of the Land Committee shall be heard at the next regular meeting following the referral. If the Planning Commission determines that the final plat substantially conforms to the preliminary and complies with the applicable platting laws of this state and with this chapter, it shall return the final plat to the secretary of the Planning Commission for approval, subject to the procedure provided in section 13.060 (9) (d). If the commission determines that the application does not comply with such provisions, it shall disapprove the application and the action of the commission shall become final ten (10) days from such action unless, within such ten (10) day period the subdivider appeals the commission's action to the board as provided in sections 13.165 to 13.185.

(c) Notification of action on a final plat. Within five (5) days following consideration by the Land Committee or the Planning Commission of a final plat, the subdivider shall be notified in writing by the secretary of the Planning Commission of the committee's or the commission's action.

(d) Approval of the final plat by secretary of the Planning Commission. If the final plat is returned to the secretary of the Planning Commission for approval, he shall sign the plat and indicate the date of approval. Before approval is so certified on the final plat, the secretary shall determine that either:

(i) All improvements as required by this chapter have been completed and a certificate of such fact has been filed with and approved by the secretary, or

(ii) a performance agreement has been filed with the secretary in a form approved by the board and in sufficient amount to insure the completion of all required improvements.

(e) Effect of plat approval. An approved final plat shall be effective for a period of one (1) year and if the final plat is not offered for record by the subdivider in the office of the county clerk within such time the final plat shall be submitted again to the secretary of the Planning Commission under section 13.060 (5), and the

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entire procedure provided thereafter shall be repeated for consideration of any conditions which may then exist.

(9) Delivery of Final Plat to County Surveyor. Following the approval and signature by the secretary of the Planning Commission, the final plat shall be delivered to the county surveyor with a certified copy thereof and all information deemed pertinent by the secretary. The county surveyor shall, in the following order:

(a) Obtain on the final plat the signature of the county assessor, whose signature shall certify that all taxes on the property have been paid;

(b) determine that all roads, streets, alleys, pedestrian ways, utility easements, slope easements, drainage easements and other easements are offered for dedication to the public use for the said purposes respectively without any reservation or restriction whatever;

(c) prepare all necessary orders to accompany final plat; and

(d) sign the final plat himself, whose signature shall certify that the platting laws of this state and the requirements of this chapter have been complied with.

(10) Consideration of Final Plat by Board. Following the county surveyor's certification of the final plat, the surveyor shall present to the board, at its next regular meeting, the plat, together with all pertinent data. If a majority of the board determines that the plat is in conformity with the requirements of this chapter and all other applicable laws and regulations, the final plat shall be approved and signed.

(11) Acknowledging Action and Delivery of Final Plat to County Clerk. Following final action of the board, the final plat shall be returned to the county surveyor, who shall notify the subdivider within five (5) days of such action. Following such notification, the county surveyor, in the presence of the subdivider or at his request, shall promptly deliver the final plat to the office of the county clerk, to be offered for record. No plat for a subdivision of land within the unincorporated portions of the county may be filed with the county clerk until final approval has been granted in accordance with the provisions of this chapter.

(12) Final Plat Copies. Following the recording of the final plat, the county surveyor shall furnish and distribute one black line or blue print copy of the final plat to the county assessor, the county planning office, the county engineer and the county department of health and sanitation. Such copies shall be furnished within ten (10) days from the date of recording.

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Platting Standards.(1) Dedication.

(a) Generally. The Planning Commission may require adequate and proper streets, including arterials, collector streets, local streets, and other streets, to be dedicated to the public by the subdivider of such design and in such location as are necessary to facilitate provision for the transportation and access needs of the community and the subdivision area in accordance with the purpose of this chapter.

(b) Special safety requirements. Where necessary to insure safety, reduce traffic hazards and promote the welfare of the general public and residents of the subdivision area, the Planning Commission may require that local streets be so designed as to discourage their use by nonlocal traffic.

(c) Master Road Plan.

(i) Submitting plan. The Planning Commission shall prepare and submit to the board a Master Road Plan or Plans and amendments thereto, for the county or such portions thereof as necessary, indicating streets and street systems needed to provide for the transportation needs of the community in its normal growth.

(ii) Adoption of plan. Upon adoption and approval by the board of any such plan or amendment thereto, as from time to time may be submitted by the Planning Commission, a copy thereof shall be filed with the county clerk and a copy shall be kept in the planning office for the use and information of the general public.

(iii) Effect of adoption. Any such plan or plans and amendments thereto adopted by the board shall be considered by the Planning Commission to be a correct designation of the transportation, access and safety needs of the area or areas included with respect to the streets designated thereon, for the purpose of determining design and location of streets to be required under section 13.065 (1) (a) and (b), unless convincing evidence to the contrary is presented to the Planning Commission.

(2) Width.

(a) Generally. Widths of street right-of-way and paving design for streets shall be not less than those set forth in the table in subsection (d); except that for a street abutting land not in the subdivision area a

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lesser width may be allowed at the discretion of the Planning Commission where the subdivider presents a satisfactory plan whereby such street will be expanded to the width otherwise required.

(b) Existing adjacent street. The widths of street right-of-way provided in the table in subsection (d) below shall be the minimum widths of right-of-way for streets existing along and adjacent to any boundary of the subdivision area, and the subdivider shall dedicate additional right-of-way, as determined by the Planning Commission in accordance with such table, for any such adjacent street where the existing width of right-of-way for such street is less than the minimum in such table.

(c) Slope easements. Slope easements shall be dedicated in accordance with specifications adopted by the board under section 13.105.

(d) CONTINUED ON NEXT PAGE.

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(d) Table.

	<u>Right-of-Way Width</u>	<u>Paving Width*</u>
<u>Arterials</u>	70'-120'***	36'-48'***
<u>Collector Streets and all Business Streets other than Arterials</u>	70'-80'***	36'-44'***
<u>Local Streets in Single Family Density Areas</u>		
A. Streets which in the judgment of the Planning Commission will never be more than 2400' in length and which will have a relatively even division of traffic to two or more exits	50'	28'
B. Other Such Streets	60'	36'
<u>Cul-de-sacs</u>	50'	28'
<u>Circular Ends of Cul-de-sacs</u>	92'***	70'***
<u>All Streets not Specifically Provided for Above</u>	60'	40'

*Measured from face to face of curbs.

** The Planning Commission may require a width within the limits shown based upon adjacent physical conditions, safety of the public and the traffic needs of the community, and in accordance with specifications adopted by the board under section 13.105.

*** Measured by diameter of circle constituting circular end.

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(3) Reserve Strips. The Planning Commission may require the subdivider to place under the jurisdiction of the board and the Planning Commission, a reserve strip controlling the access to a street, when the Planning Commission determines that a strip is necessary for one or more of the following reasons:

(a) To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly subdivision of land lying beyond the street;

(b) to prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in the table of section 13.065

(2) (d);

(c) to prevent access to land abutting a street of the subdivision, but not within the tract or parcel of land being subdivided; or

(d) to prevent access to land unsuitable for building development.

(4) Intersections of Streets.

(a) Angles. Streets shall intersect one another at an angle as near to a right angle as is practicable considering topography of the area and previous adjacent layout; where not so practicable, the right-of-way and street paving within the acute angle shall have a minimum of 30' centerline radius where such angle is not less than 60 degrees. In the case of streets intersecting at an angle of less than 60 degrees, then of such minimum as the Planning Commission may determine in accordance with the purpose of this chapter.

(b) Jogs. Intersections shall be so designed that no jog dangerous to the traveling public is created as a result of staggering of intersections; and in no case shall there be a jog of less than 100 feet.

(5) Topography. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this chapter.

(6) Future Extension of Streets. Where the subdivision area is adjacent to land likely to be subdivided in the future, streets shall continue through to the boundary lines of the tract under the same ownership of which the subdivision area is a part, where the Planning Commission determines that such continuation is necessary to provide for the orderly subdivision of such adjacent land, or the transportation and access needs of the community.

(7) Cul-de-sacs. There shall be no cul-de-sacs more than 400 feet long or serving more than 18 single family dwellings. Each cul-de-sac shall have a circular end with a minimum diameter of right-of-way width and paving as shown in the table of section 13.065(2) (d).

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(8) Street Names. Streets that are in alignment with existing streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the Planning Commission and shall not unnecessarily duplicate or resemble the name of any existing or platted street in the county.

(9) Grades and Curves. Unless otherwise approved by the Planning Commission because topographical conditions will not reasonably permit, grades shall not exceed six percent (6%) on arterials, ten percent (10%) on collector streets, or twelve percent (12%) on all other streets. Centerline radii on curves shall not be less than 300 feet on arterials, 200 feet on collector streets, or 100 feet on all other streets.

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13.070 Alleys.

(1) Dedication. The Planning Commission may require adequate and proper alleys to be dedicated to the public by the subdivider of such design and in such location as necessary to provide for the access needs of the subdivision area in accordance with the purpose of this chapter.

(2) Width. Width of right-of-way and paving design for alleys shall be not less than 20 feet, except that for an alley abutting land not in the subdivision area a lesser width may be allowed in the discretion of the Planning Commission where the subdivider presents a satisfactory plan whereby such alley will be expanded to the width otherwise required. Slope easements shall be dedicated in accordance with specifications adopted by the board under section 13.105.

(3) Corner Cut-Offs. Where two alleys intersect, ten (10) foot corner cut-offs shall be provided.

(4) Grades and Curves. Unless otherwise approved by the Planning Commission where topographical conditions will not reasonably permit, grades shall not exceed twelve percent (12%) in alleys, and centerline radii on curves shall not be less than 100 feet.

(5) Other Requirements. All provisions and requirements with respect to streets in section 13.065 (3), (4), (5), and (6) shall apply to alleys.

13.073 Sidewalks. The Planning Commission may require adequate and proper sidewalks to be dedicated to the public by the subdivider, of such design and in such locations as are necessary to facilitate provision for the pedestrian traffic needs of the community and the subdivision area, in accordance with the purpose of this chapter and the Lane County Sidewalk Ordinance as may be adopted or amended by the Board of County Commissioners.

13.075 Blocks.

(1) Block Length. Block length shall not exceed 1200 feet.

(2) Pedestrian Ways. When necessary for public convenience and safety, the Planning Commission may require the subdivider to dedicate to the public pedestrian ways ten (10) feet in width to connect cul-de-sacs, to pass through oddly shaped or unusually long blocks, or to provide access to schools, parks or other public areas, of such design and location as reasonably required to facilitate pedestrian travel.

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(3) Easements for Utilities. Dedication of easements for storm water sewers, and for access thereto for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water, and dedication of easements for sanitary sewers, and for access thereto for maintenance, and dedication of easements for other public utilities, may be required of the subdivider by the Planning Commission along lot rear lines, lot side lines, or elsewhere as necessary to provide needed facilities for present or future development of the area in accordance with the purpose of this chapter. Easements for utility lines shall be not less than fourteen (14) feet in width, except that for an easement abutting land not in the subdivision area a lesser width may be allowed at the discretion of the Planning Commission where the subdivider presents a satisfactory plan whereby such easement will be expanded to the width otherwise required. Easements for access to sewer lines for maintenance shall be six (6) feet in width.

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Lots.

(1) Size and Frontage. General Requirements.

(a) Area and Width for Residential Use:

(i) Where the site is served by both public sewer and water facilities, or by public sewers alone:

Single-family dwelling	6,000 sq. ft.	60' m.a.w.
Two-family dwelling	8,000 sq. ft.	60' m.a.w.
Three-family dwelling	10,000 sq. ft.	70' m.a.w.
Four-family dwelling	12,000 sq. ft.	70' m.a.w.

(ii) Where the site is served by public water, but not by public sewer facilities:

Single-family dwelling	8,000 sq. ft.	60' m.a.w.
Two-family dwelling	12,000 sq. ft.	70' m.a.w.
Three-family dwelling	16,000 sq. ft.	80' m.a.w.
Four-family dwelling	20,000 sq. ft.	90' m.a.w.

(iii) Where the site is served by neither public sewer nor public water facilities:

Single & two-family dwellings	one acre	150' m.a.w.*
Three & four-family dwellings	two acres	250' m.a.w.

* m.a.w. - minimum average width.

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(iv) Corner lots, key lots and butt lots shall, in no case, have a minimum average width between the lot side lines of less than sixty-five (65) feet.

(b) Depth. Each lot shall have an average depth between the lot front line and the lot rear line of not less than the applicable minimum average width requirement for such lot, but in no case shall be less than 80 feet, and not more than two and one-half (2-1/2) times the average width between the lot side lines.

(c) Frontage. Each lot shall have frontage of not less than 60 feet upon a street, except that a lot on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than 35 feet upon a street, measured on the arc.

(d) Minimum area. No lot shall be created, divided or set off in such a manner that either the portion created, divided or set off, or the portion remaining, shall fail to conform with the applicable minimum area, width, depth and frontage requirements set forth immediately above.

(2) Size and Frontage: Exceptions.

(a) Subdivision area developed as a unit. The Planning Commission may at its discretion authorize the relaxation of the lot size and frontage requirements specified herein where the subdivider presents a plan satisfactory to the Planning Commission whereby the entire subdivision area will be designed and developed with provision for proper maintenance of recreation and park area which will be commonly available for recreation and park purposes to the residents of the subdivision area, and which the Planning Commission determines will be of such benefit to said residents as is equal to that which would be derived from observance of the lot size and frontage requirements otherwise specified, and will be in accordance with the purpose of this chapter.

(b) Lot retained for future subdivision. The Planning Commission may in its discretion waive lot frontage requirements where in its judgment a lot should and will be retained by the subdivider, and future subdivision of such lot will be the highest and best use thereof and such use will be best protected by the creation of a reserve strip separating such lot from any street.

(3) Key Lots and Butt Lots. There shall be no key lots or butt lots except where authorized by the Planning Commission where such lots are necessitated by unusual topographic conditions or previous adjacent layout.

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(4) Lot Side Lines. As far as is practicable, lot side lines shall run at right angles to the street upon which the lots face, except that on curved streets they shall be radial to the curve.

(5) Suitability for Intended Use. All lots shall be suitable for the purpose for which they are intended to be used. No lot shall be of such size or design as to be detrimental to the health, safety or sanitary needs of the residents of the subdivision area or of such lot, as determined by the Planning Commission in accordance with the purpose of this chapter.

(6) Future Subdivision of Lots. Where the subdivision will result in a lot one-half (1/2) acre or larger in size which, in the judgment of the Planning Commission, is likely to be subdivided in the future, the Planning Commission may require that the location of lot lines and other details of layout be such that future subdivision may readily be made without violating the requirements of this chapter and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record if the Planning Commission deems it necessary for the purpose of future subdivision.

13.085 Drainage. Where land in the subdivision area is or will be periodically subject to accumulations of surface water or is traversed by any water course, channel, stream, or creek, the Planning Commission may require the subdivider to provide for adequate unrestricted drainage over drainage land by dedicating to the public easements therefor, approved by the Planning Commission as adequate for the drainage needs of the area, or, where necessary in the judgment of the Planning Commission for protection of such needs, by conveying ownership of such drainage land for drainage purposes to the county or to an incorporated drainage district or domestic water supply district or domestic water supply district within which such land may be located.

13.090 Railroads.

(1) Crossings. Special requirements may be imposed by the Planning Commission, including but not limited to provisions for separation of street and railroad grades, in connection with any railroad crossing which will immediately affect the safety of the residents of the subdivision area, for the protection of such residents and the safety of the general public in accordance with the purpose of this chapter.

(2) Subdivision Area Adjacent to Right-of-Way. Where the subdivision area is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property will be used for industrial purposes in the normal growth of the

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community, all streets shall be located at a sufficient distance from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way.

13.095 Partial Development. Where the subdivision area includes only part of the tract owned by the subdivider, the Planning Commission may require a sketch of a tentative layout of streets in the remainder of said tract.

13.100 Unsuitable Areas. No areas dangerous to the health and safety of the public or those who would live in such areas, and no lands subject to slippage or inundation shall be subdivided.

13.105 Specifications.

(1) Submitting Specifications. The Planning Commission shall prepare and submit for the approval of the Board of County Commissioners specifications, and amendments thereto, for construction of streets and alleys, construction of curbs and gutters, dedication of slope easements for streets and alleys, construction of drainage facilities, construction of sidewalks, and construction of pedestrian ways in subdivision areas. Such specifications shall conform to proper engineering standards relevant thereto, and be so devised as to facilitate provision for the health, safety and welfare needs of the County and area affected in accordance with the purpose of this chapter.

(2) Procedure. The procedure for preparing, submitting, and adopting all such specifications and amendments thereto, including notice and hearing, shall conform to that required by law for the enactment of ordinances by the board requiring approval of subdivisions by the Planning Commission.

(3) Adoption of Specifications. Upon adoption by the board of any such specifications and amendments thereto, as from time to time may be submitted by the Planning Commission, a copy thereof shall be filed with the county clerk and a copy shall be kept in the Planning Office for the use and information of the general public.

(4) Effect of Adoption. Any such specifications and amendments thereto duly adopted by the board shall be considered to be binding and in effect from the date of adoption, and to be fully incorporated by reference into this chapter where such specifications are referred to, the same as if fully set forth thereat.

13.110 Water Supply. All lots within the subdivision area of a major subdivision, any part of which is within urbanizing area, shall be served by a municipal domestic water supply system, or by a private domestic water supply corporation which corporation has been approved by the Planning Commission as adequate to provide for the health and sanitation needs of the area.

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13.115 Sewage. All lots within the subdivision area of a major subdivision, any part of which is within urbanizing area, shall where practicable, as determined by the Planning Commission in accordance with the purpose of this chapter, be served by a municipal sewage system, or by a private sewage service corporation, which corporation has been approved by the Planning Commission as adequate to provide for the health and sanitation needs of the area.

13.120 Land Surface Drainage. Such grading shall be done and such drainage facilities shall be constructed by subdivider as are adequate for the purpose of proper drainage of the subdivision area and of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision area and for the benefit of the general public, in accordance with specifications adopted by the board in section 13.105.

13.125 Streets and Alleys. The subdivider shall grade and pave all streets and alleys in the subdivision area to the width specified in sections 13.065 to 13.100, and provide for drainage of all such streets and alleys, and construct curbs and gutters within the subdivision area in accordance with specifications adopted by the board under section 13.105. Construction of such improvements shall be subject to inspection and approval by the county engineer.

13.127 Sidewalks. The subdivider shall grade and pave all sidewalks in the subdivision area in accordance with specifications adopted by ordinance by the Board of County Commissioners. Construction of such improvements shall be subject to inspection and approval by the County Engineer.

13.130 Pedestrian Ways. A walk strip not less than five (5) feet in width shall be paved in the center of all dedicated pedestrian ways. Such paving shall conform to specifications adopted by the board under section 13.105.

13.135 Performance Agreement. If all improvements required by the Planning Commission and this chapter are not completed according to specifications as required herein prior to the time the final plat or finished plat is duly submitted for consideration and approval, the Planning Commission may accept in lieu of said completion of improvements a performance agreement executed by the subdivider and his surety company with the board conditioned on faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the Planning Commission.

13.140 Application for Modification of Code Requirements.

(1) Time for Submitting Application. Concurrently with submitting a finished plat, preliminary plat or final plat to the

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secretary of the Planning Commission for Planning Commission consideration and approval, a subdivider may submit to the secretary of the Planning Commission an application for a modification of any provision of sections 13.035 to 13.135.

(2) Contents of Application. An application for a modification shall be a verified petition stating the provision sought to be modified and stating facts showing that:

(a) Such provision, if strictly applied, would cause unique and unnecessary hardship to such subdivider in subdividing the subdivision area; and that

(b) modification of such provision would not be contrary to the purpose of this chapter for the reason that:

(1) where the application is for a modification of any provision of sections 13.065 to 13.135, unusual topographic conditions or previous layout of the subdivision area or neighboring area reasonably require such modification and such modification will not be substantially injurious to the best use and value of property in the neighboring area, or

(2) where the application is for a modification of any provision of sections 13.035 to 13.060, the purpose of such provision has been fulfilled without a strict application thereof, and the interest of the public in efficient transaction of public business will best be served by such modification.

13.145 Time of Consideration of Application by Planning Commission

At the Planning Commission meeting at which the finished plat, preliminary plat or final plat accompanying the application for a modification is to be considered by the Planning Commission for approval, and prior to such consideration, the Planning Commission shall consider such application for a modification.

13.150 Allowance of Modification by Planning Commission. If a

majority of a quorum of the Planning Commission determines from such evidence as it deems necessary and competent that the circumstances specified in section 13.140(2), (a) and (b) have been shown to exist, it shall allow a modification of such provision referred to in such application to such extent and on such terms and conditions as it considers proper in accordance with the purpose of this chapter.

13.155 Effect of Allowance of Modification. After the procedure provided in Sections 13.145 and 13.150 have been duly complied with, the Planning Commission shall proceed to consider

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the finished plat, preliminary plat, or final plat which accompanied the application for such modification. Such consideration shall proceed under the requirements provided for in this chapter; but the Planning Commission may consider any provision of sections 13.035 to 13.135 to be satisfied to the extent and under the conditions and terms of the modification allowed.

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Refusal to Allow Modification. If a modification is not allowed by the Planning Commission as provided in section

13.150, the application for modification shall be deemed to have been denied and the Planning Commission shall proceed to consider the finished plat, preliminary plat or final plat which accompanied the application for such modification under the requirements provided for in this chapter.

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Appeals and Hearings by Board. Any subdivider who has duly submitted a finished plat under section 13.045 (1), a preliminary plat under section 13.060(1), or a final plat under section 13.060 (5), may appeal to the board if:

(a) the subdivider is dissatisfied with the action of the Planning Commission, or

(b) the Planning Commission or Land Committee does not take action on such finished plat under sections 13.045 (4) or 13.050 within forty-five (45) days after such plat is so submitted, or

(c) the Planning Commission or Land Committee does not take action on such preliminary or final plat under section 13.060 (4) or (8) within forty-five (45) days after such plat is so submitted, or

(d) the county surveyor does not take action on such final plat under section 13.060 (8) (c) and within twenty-five (25) days after such plat is so submitted, and

(e) the subdivider believes that such action or failure to take action on such plat is erroneous.

(f) An appeal shall be taken no later than ten (10) days after the commission's action or the expiration of such forty-five (45) day period, whichever the case may be.

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Manner of Taking Appeal. An appeal may be taken by filing with the board a copy of the plat involved and a written request for an appeal which shall include a concise statement of the grounds upon which the appellant claims the action appealed from was erroneous.

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13.175 Procedure on Appeals. No later than twenty (20) days after notice of appeal has been filed and upon at least five (5) days notice on the time and place of the hearing mailed to the subdivider by registered mail, the board shall hear the appeal in public session. At the hearing the board shall consider evidence presented by the appellant, his plat, any reports, comments or information with respect thereto from any public office or official theretofore considered by the planning commission, the minutes of the planning commission meeting dealing with the plat applicable thereto, and any other relevant evidence. Evidence need not be given under oath, and technical rules of evidence shall not apply, but all evidence given orally shall be reduced to writing in summary form and all documentary evidence shall be considered public.

13.180 Ruling on Appeal. The consideration of the plat on appeal will be de novo and the board shall determine whether the plat conforms to the requirements of this chapter, all applicable platting laws of the state, the county zoning ordinance, chapters 11 and 12 of this code, and all other applicable laws and regulations. Based upon this determination, the plat shall be approved, conditionally approved, or disapproved by a majority of the entire membership of the board.

13.185 Notification by Board of Action on Appeals. Within five (5) days following consideration by the board on an appeal, the subdivider shall be notified of the board's action by the chairman of the board.

Penalties

13.995 Penalties. Violation of any provision of section 13.020 is punishable, upon conviction, by a fine of not less than fifty dollars (\$50.00) nor more than five thousand dollars (\$5,000.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or by both.

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a variance is denied under sections 15.050 and 15.055, this land must be purchased or condemned upon the written request of the property owner. Upon the failure of the county to purchase the property or initiate condemnation proceedings within six (6) months of such request, the subject property shall be free of any restrictions or encumbrances imposed by this chapter.

15.064 Fees.

(1) For the purpose of partially defraying expenses involved in processing applications submitted under this chapter of the Code, the Planning Department shall collect fees in the amounts established by Order of the Board of Commissioners for variance applications.

(2) All fees are non-refundable except in cases when the processing of an application was terminated prior to the incurring of any substantial administrative expenses. Refunds shall be made at the direction of the Planning Director.

15.065 Right to Require Removal of Structures. If an owner of any land, without authority of a variance allowed by this chapter, builds, makes, moves or enlarges a structure or other improvement on land reserved for a future public purpose by this chapter or restricted against improvement by a setback requirement:

(a) Neither he nor any of his successors in interest may recover damages for public taking or removal of the structure improvement as thus built, made, moved or enlarged; and

(b) Upon appropriation of the land for public purpose for which this chapter makes reservations, the board may require whoever owns the land at the time of the appropriation, or his successors in interest to the land to remove or pay the cost of removing from the land and from abutting land restricted by setback requirements the structures or improvements thus built, made, moved or enlarged.

15.070 Effective Date. This chapter has been in full force and effect as of August 20, 1969.

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MAJESTIC ROAD PLAN

Chapter 15

Land Code