



**LAND USE & TRANSPORTATION
PLANNING PROGRAM**

1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
http://www.co.multnomah.or.us/dbcs/LUT/land_use

Staff Analysis of Measure 37 Claim

The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

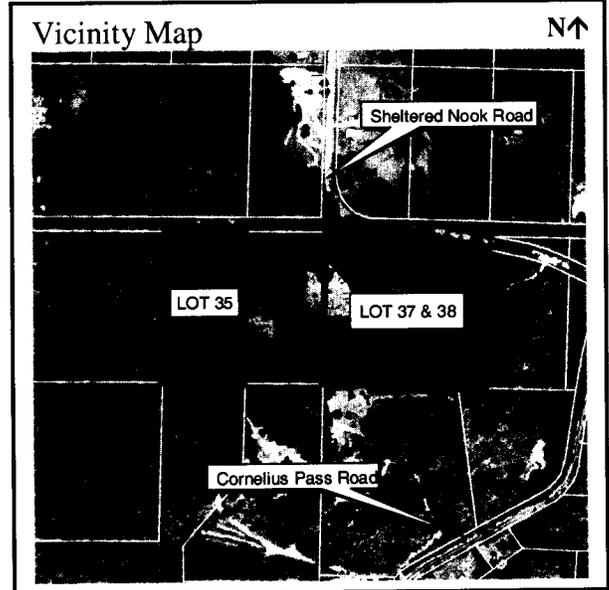
Hearing Date, Time, & Place:

April 20th, 2006 at 9:30 am or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-05-042

Claimants: Albert & Deane Dilnik
17666 NW Shorewood Dr.
Beaverton, Oregon 97006

Locations: TL 2300 (Subdivision Lot 35),
T2N, R2W, W.M., Section 24D
&
TL 1700 (Subdivision Lots 37 & 38),
T2N, R1W, W.M., Section 19C



Claim: Demand to not apply Multnomah County Code land use regulations which restrict the owner's desired use of the property to allow the construction of a single family dwelling on each of three undeveloped 5-acre subdivision lots. The claimants currently own a 20 acre property consisting of one home on one 5 acre lot and three other undeveloped 5 acre lots (acreages are approximate). The claimants do not desire to construct the homes on the three undeveloped lots but to sell the properties along with any transferable right to construct a single family dwelling on each lot.

Zoning: Commercial Forest Use-2 (CFU-2), Significant Environmental Concern for wildlife habitat, stream protection and scenic views, and Hillside Development.

Site Size: Lot 35 = 4.74 acres
Lot 37 ≈ 5.0 Acres
Lot 38 ≈ 4.6 Acres

Approach to Deciding the Claim:

As indicated in Multnomah County deed records, Albert J. and Deane M. Dilnik (claimants) acquired the subject properties on April 5, 1966 (Book 485, Page 66). The claimants have indicated that the challenged regulations enacted after they purchased the properties have prevented them from selling the properties to a third party who could construct a single family dwelling on each of the three

undeveloped lots within the Sheltered Nook Subdivision (Exhibit A8). Current land use rules treat the lots as one property for purposes of development. The claimants own a single family dwelling on Lot 36 which is not involved in this Measure 37 claim but is located between lots involved in this claim. The claimant's narrative description, title report, appraisal and professional opinion by a Century 21 real estate broker assert that the challenged regulations have reduced the value of the three undeveloped lots.

Considering that the Attorney General has issued an opinion that Measure 37 rights are not transferable, the Board should consider this an invalid claim because any development rights gained through regulation waiver would have no value once the lots are sold. Rights gained through a Measure 37 decision are personal to the claimant and are of no value to a third party. Accordingly, once the three undeveloped lots are sold to a third party they will be subject to current regulations prohibiting the establishment of a single family dwelling on each lot. Selling the lots would have the effect of eliminating any restriction in use of the properties and any reduction in real market value. The Board can reassess this claim in the future if the courts find that Measure 37 rights are transferable.

Staff Analysis

(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by Albert and Deane Dilnik. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24th, 2005 memo authored by the State Attorney General's Office.)

1. *Has the owner made a complete written demand under Ballot Measure 37?*

Yes. The materials submitted by the claimant constitute a complete “written demand for compensation” within the meaning of the measure.

On July 12th, 2005, Albert and Deane Dilnik submitted a completed Measure 37 claim form, a \$1,500 deposit, a narrative (Exhibit A1), an appraisal (Exhibit A2), letter from a Century 21 broker (Exhibit A5) and a chain of title with copies of the referenced deeds (Exhibits A4 and A7, respectively). These materials constitute a complete written demand for compensation complying with the county's Measure 37 requirements of section 7.520. The real estate appraisal and opinion provided by the real estate broker qualifies as acceptable alternative data because this claim involves a single family dwelling request on each lot (MCC 7.520(10)(b)). The records submitted demonstrate the claimants are in fact the owners of the lots involved in this Measure 37 claim. This alternative data by itself is not adequate to determine the exact amount of any value reduction, although it has been used as a rough approximation for purposes of this staff report.

2. *Did the claimant acquire the property before the laws in question were adopted?*

Yes. The Claimants first held interest in the identified lots on April 5th, 1966 (Recorded in Book 485, Page 66), prior to the county adopting the challenged regulations set out in the claim.

The zoning of the three lots was Suburban Residential in 1966 when the claimants purchased the properties. A copy of the Suburban Residential regulations in effect in 1966 is presented as Exhibit B2. The zoning did not change from Suburban Residential to Multiple Use Forest-20 until October of 1977. Zoning of the properties changed again on August 14, 1980 to Multiple Use Forest-19. It is with this change that the aggregation requirements were first imposed. On January 7, 1993 the zoning changed to Commercial Forest Use. The current Commercial Forest Use-2 regulations challenged by the claimants first came into effect in August of 1998 and were later amended in 2002.

3. *Have the challenged regulations restricted the use of the property?*

No, because the regulations for the three undeveloped lots would revert back to current regulations once sold to a third party. The current regulations prohibit establishment of a dwelling on each undeveloped lot. A discussion on the identified regulations is presented below.

County maps indicate Tax Lots 35, 37 & 38 are currently zoned Commercial Forest Use-2 (CFU-2) with Significant Environmental Concern Zoning overlays for wildlife habitat, stream protection and scenic views. Portions of all three lots are also located within a Hillside Development zone. The CFU-2 regulations allow a new dwelling on an undeveloped tract of land if all approval criteria can be met.

The claimants highlighted land use regulations they believe restrict the use of the lots. Staff created a list of the challenged regulations presented as Exhibit A6 because the highlighted copy of the regulations submitted by the claimants failed to photocopy clearly. The identified regulations have been grouped into the following four main categories for discussion purposes:

- Category 1 – Regulations that would have restricted the claimants use of the property if transferable rights were not requested by the claimants
- Category 2 – Regulations that would be premature to find that they restrict the use
- Category 3 – Regulations exempt from Measure 37
- Category 4 – Unrelated regulations

Category 1 - Regulations that would have restricted the use of the property if transferable rights were not requested by the claimants

The following regulations have been identified as regulations that would have restricted the use of the three identified properties if the claimants did not seek transferable Measure 37 rights. This hypothetical discussion is provided to help better explain the scope of this claim, even though Staff believes a restriction in use has not occurred by any of the regulations discussed in this report.

MCC 33.2240(A)(1) – Requirement that the Lot of Record standards of MCC 33.2275 be met
MCC 33.0005(L)(13) – Lot of Record definition
MCC 33.2275(A)(1) & (2) – Lot of Record Requirements

The county's Lot of Record provisions above require contiguous properties in the same ownership on February 20th, 1990 to be at least 19-acres in size and be lawfully established if they are to be considered separate Lots of Record eligible for a new residential development request. Because Lots 35, 37 and 38 are each smaller than 19-acres in size, all are considered aggregated into one Lot of Record with the developed Lot 36. Accordingly, under the current rules, the claimant's properties are considered one 20-acre Lot of Record. The claimants cannot build on the vacant lots and this would be a restriction of use within the meaning of Measure 37 if the claimants sought to build on the properties themselves.

MCC 33.2210 - Definition of "Tract"

MCC 33.2240(A)(1)(e) – Requirement that no other dwellings be located on the tract

MCC 33.2240(A)(1)(f) – Requirement that no other dwellings are allowed on other lots that make up the tract

MCC 33.2240(A)(1)(g) – Requirement that all lots that are part of the tract be precluded from all future dwelling rights

MCC 33.2240(A)(1)(h) – Requirement that no other lot part of the tract be used to qualify another tract for siting of a dwelling

MCC 33.2240(B)(3) – Requirement that when the proposed tract consists of more than one lot that the remaining lots be consolidated into a single lot prior to issuance of development permits.

A "Tract" is defined by Multnomah County Code section 33.2210 as one or more contiguous Lots of Record in the same ownership. Because the claimants have owned contiguous Lots 35, 36, 37 and 38 since 1966, all four lots are considered to be part of one Tract of land for development purposes. Because the Tract already contains a home on Lot 36, the claimants can not obtain approval under current regulations to establish additional dwellings on any of the three undeveloped lots. In this case, the Tract regulations create much of the same development hurdle as the Lot of Record regulations. If the definition of "Tract" would have restricted the use of the properties (MCC

33.2210), then the other provisions above would have also restricted the use of the properties in the event the claim did not involve transferable rights because they rely on how a Tract is defined.

Category 2 – Regulations that would be premature to find that they restrict the use

- *MCC 33.2260(C) – Dimensional requirements for new structures*

This provision requires all new structures in the Commercial Forest Use-2 zone district be located at least 130-feet from all property lines with exception to the property line paralleling the access road where the setback is 60-feet from the road center. Because the claimants do not propose to develop any of the lots themselves, a specific development plan has not been submitted for any lot involved in this request. It would be premature to find that these regulations restrict the use because the specifics of the proposed development have not been presented.

Category 3 – Regulations exempt from Measure 37 because they relate to health and safety or federal law

- *MCC 33.2305(A)(5)(d) – Development standard requiring the building site slope less than 40 percent.*

This is a fire safety standard prohibiting a dwelling or structure from being located on slopes steeper than 40%. This standard is exempt from Measure 37 as it relates to public safety.

Category 4 – Unrelated regulations

- *MCC 33.2240(A)(1)(c) – Requirement that eleven lots and five dwellings be located within 160-acres of the site to qualify a template dwelling*

This is a Template Test (residential density development test) standard requiring at least eleven lots and five dwellings to be located within a 160-acre square, centered on the Tract, to qualify a new template dwelling on an undeveloped tract of land capable of producing above 85 cf/ac/yr of Doug fir timber. This standard is unrelated to this claim because the Tract already contains a dwelling.

- *MCC 33.2240(B)(1)(b) – Requirement that a heritage tract dwelling can only be located on a tract not capable of producing 5,000 cubic feet per year of commercial timber*
- *MCC 33.2240(B)(1)(c) – Requirement that the heritage tract dwelling be located within 1,500 feet of a public road*

On average, the Goble Silt Loam soils blanketing each lot are anticipated to produce 140 cubic feet per acre, per year of commercial timber¹. Staff has estimated a total potential yield of approximately 2,800 cubic feet of commercial timber per year for the entire 20-acre tract. This heritage tract dwelling standard is not likely to restrict the use of the property because this projected timber yield does not exceed 5,000 cubic feet per year. In addition, these Heritage Tract Dwelling standards are unrelated to this claim because the Tract already contains a dwelling.

- *MCC 33.2240(A)(5) – Requirement that long-term road access permit or agreement be provided*

¹ “Estimates taken from Multnomah County’s Table entitled “Soil Unit Symbols and Names; Productivity Ratings and Classifications for Douglas Fir Yields.”

This regulation only applies if the road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. All lots involved in this request either abut Sheltered Nook Road, a County Road, or a public road right of way. This regulation does not apply to this claim.

4. *Have the restrictions reduced the fair market value of the property?*

No, there will be no reduction in fair market value of the three undeveloped lots because development rights gained through Measure 37 are personal to the claimant and are of no value to a third party. Staff has outlined below the degree to which the regulations would have restricted the use of the properties if transferable rights were not sought by the claimants. The evaluation below has been presented to help explain the scope of the claim and does not document the specific reduction in fair market value. A reduction in fair market value has not occurred.

The zoning of Lots 35, 37 and 38 was Suburban Residential when the claimants acquired the properties as previously discussed. This zone district allowed the construction of “*single family dwellings*” at that time (MCC 3.1521).

Kimberly Marcellius, Century 21 Broker, submitted a letter of professional opinion on the potential value of the undeveloped lots as developable properties (Exhibit A5). Ms. Marcellius concludes that assuming each of the three vacant lots had adequate vehicular access and adequate septic disposal options, that a starting value of \$160,000 would be reasonable *per* lot. Ms. Marcellius also indicates in that letter that Lot 36 containing the home would be valued between \$340,000 and \$360,000. An opinion by Bob Alcantara, Multnomah County Senior Appraisal Supervisor, confirms these value estimates are within an appropriate range (Exhibit B6).

Assuming a median value of \$350,000 for developed Lot 36 and \$160,000 for each of the undeveloped lots, it appears from Ms. Marcellius’s opinion that a **total estimated value of \$830,000** would be a reasonable total value for the entire tract (Lots 35, 36, 37 and 38) if the undeveloped lots could be developed. It should be noted that the \$830,000 total was calculated by Staff using the alternative data submitted.

Even though Lot 36 is not involved in this claim, it needed to be included in this total of estimated developed value for the tract because the professional appraisal provides a current value of the entire tract. Because the potential developed value of the tract will be subtracted from the current value of the tract, including Lot 36 in the two values will have no impact on the hypothetical value reduction.

The residential appraisal report prepared by Barry Wilson (#C000345) provides a **current value estimate of \$425,000** for the entire tract (Lots 35, 36, 37 and 38) - (Exhibit A2). Comparing the estimated value of the tract with development rights provided by Kimberly Marcellius (Broker) to those of Barry Wilson (Appraiser), it appears the claimant is asserting that the value of the tract has been reduced by roughly \$405,000 ($\$830,000^2 - \$425,000^3 = \$405,000$). It should be clearly noted that the alternative data submitted assumes the ability to develop the lots is transferable by sale which contradicts the Attorney General’s opinion on transferability. Also, the alternative data looks

² Rough estimate provided by Staff for the total value of Lots 35, 36, 37 and 38 if a single family dwelling of similar value to that on Lot 36 could be constructed on lots 35, 37 and 38.

³ Current value of Lots 35 (undeveloped), 36 (developed), 37 (undeveloped) and 38 (undeveloped) provided by Barry Wilson, Oregon State Certified General Appraiser.

only at the current market value of the property and comparable properties. It does not look at the impact of the regulations at the time they were imposed. The land use regulations challenged in this claim have constrained the supply of developable properties in this area, the result of which may impact land values of the remaining developable properties in a positive manner⁴. That impact on the value is not considered in the analysis.

Nonetheless, the claimants assert a difference in value between existing developable lots and existing non-developable lots does exist. Staff finds there has been no reduction in fair market value in this case because development rights gained through a Measure 37 decision to not apply regulations are personal to the claimant and are of no value to a third party.

5. *Have those regulations that reduce the fair market value of the property been enforced?*

No, because none of the identified regulations will reduce the fair market value once sold as previously discussed. The claimant has not submitted an application to establish a Dwelling on Lot 35, 37 or 38 under the current regulations. Although it has not been demonstrated that the current regulations could not be met through the submittal of a land use application, Staff would not encourage the claimants to submit such an application because it would not likely be approved due to the Tract and Lot of Record provisions previously discussed.

Public Comment

After a claim for compensation is declared complete pursuant to MCC 7.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 7.530(A)).

Pursuant to the provisions of MCC 7.530, a 14-day Opportunity to Comment packet was mailed on August 10th, 2005. Only one written comment was submitted by Kate Dreyfus (Multnomah County Transportation Planning Specialist) which is attached as Exhibit B5. Ms. Dreyfus indicated that no conditions of approval would be required from the Transportation Department at this time but any future construction on the lots may require access permits, on and off-site improvements and drainage discharge permits.

An opinion was also submitted by Bob Alcantara, Multnomah County Senior Appraisal Supervisor regarding the alternative data submitted. Mr. Alcantara provides estimated values for the parcels if they are determined to be buildable. Mr. Alcantara's estimates are reasonably consistent with the value estimates provided by Kimberly Marcellus, realtor. Mr. Alcantara's opinion is presented as Exhibit B6. The opinion submitted by Ms. Marcellus is presented as Exhibit A5.

Conclusion

Considering the above findings, Mr. and Mrs. Dilnik have not established that land use regulations enacted after they purchased Lots 35, 37 and 38 have restricted the use or reduced the fair market values of the properties. The Dilniks have indicated that they do not wish to actually build homes on the identified lots but wish to sell the lots to an unrelated third party who would build the homes.

⁴ (2006) Jaeger, W., The effects of Land-Use Regulations on Property Values, Environmental Law (VOL 36) Pages 105 – 130.

Considering that the Attorney General has issued an opinion that Measure 37 rights are not transferable, the Board should consider this an invalid claim because any development rights gained through regulation waiver would have no value once the lots are sold. Rights gained through a Measure 37 decision are personal to the claimant and are of no value to a third party. Once the three undeveloped lots are sold to a third party they will be subject to current regulations that prohibit the establishment of a single family dwelling. Accordingly, the lots have no value for residential development. A regulation that restricts the sale of valueless lots does not reduce the value of the property. If in the future the courts find that Measure 37 rights are transferable, the Board can reassess the claim.

Considering the current legal ambiguity surrounding transferability, the Board can not elect to provide monetary compensation for the reduction in value at this time because no reduction in value will result and because alternative data was used in evaluating this claim (MCC 7.520(10)(b)), i.e. there is no evidence to support a monetary compensation figure. The claimants have been clear throughout the process that they wish to sell the identified properties with all Measure 37 rights intact and do not intend to actually construct the single family dwellings. The claimants have also been clear that they do not seek monetary compensation as an outcome.

In conclusion, Staff finds the claim is invalid and is not eligible for regulation waiver or monetary compensation.

Issued by:

By: 
Adam Barber, Planner

For: Karen Schilling- Planning Director

Date: March 23, 2006

Exhibits

Copies of the exhibits, referenced herein, are included with this report. All other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office.

Applicant Exhibits

- A1. Narrative, submitted July 12, 2005
- A2. Appraisal prepared by Barry Wilson, Barry C. Wilson Appraisals, submitted July 12, 2005
- A3. Assessment & Taxation Records
- A4. Title Report, submitted July 12, 2005
- A5. Letter from Kimberly Marcellus, Century 21 Broker, submitted July 12, 2005
- A6. List of identified land use regulations restricting use of lots
- A7. Deeds submitted July 12, 2005
- A8. Measure 37 claim form

Staff Exhibits

- B1. Text of Ballot Measure 37 and effective Ordinance
- B2. Suburban Residential ordinance in place on date claimants purchased property
- B3. Current Zoning Map

- B4. Vicinity Map and 2004 Aerial Photo of subject lots
- B5. Comments from Kate Dreyfus, Multnomah County Transportation Planning Specialist, received August 24, 2005
- B6. Comments from Bob Alcantara, Multnomah County Senior Appraisal Supervisor, received February 23, 2006

In 1908 Multnomah County approved Sheltered Nook Subdivision of 5 acre buildable lots with the owners right of sale at his discretion. That was over 96 years ago. We purchased our home on lot # 36 along with lots #35,37,38 in 1966 with the same rights still in place. We have owned and lived on this property for over 39 years. As senior citizens with serious medical problems we can no longer maintain our property as it should be. So with deep regret we must sell and move to a much smaller place with less responsibility, close to public transportation and other conveniences.

Now we learn that Multnomah County has in place, land use regulations that will not only delay the sale at fair market value, but also remove our rights that were in place since 1908. Who in there right mind would want to buy land they could not build on? People that choose this lifestyle know immediately a given property is there dream place. We are left with the impression that there are some people that work for Multnomah County Planning Commission that are overly concerned about wildlife. The wildlife we see here are doing fine. Example: Our small vegetable garden, 20+ elk pass through enjoying the fruits of our labor (they have come through more than once) and we were in awe, running for the camera. The deer at night, enjoying our rose blossoms, or the BEAR just 10 feet from the house swatting at the bird feeder. He was very hungry.(We have that one on video.) Just one more for you, a crow,(we named TOTO) with a serious wing injury. We kept him in a cage while he recovered, for his own protection. He had the run of the yard after healing for weeks until one day knowing that we were watching him, muttering in crow talk as he walked up the hill and left us. (THAT WAS CROW TALK FOR GOODBYE.)

We have 39 years of country folk memories. Is there any one writing up these restrictions enjoying this kind of life style? My bet is they are all city dwellers.

Barry Wilson's appraisal as you will note was made with land use restrictions in place. Kimberly Marcellus we chose because of her knowledge of land values in this area, came up with an evaluation with no county restrictions resulting in a large discrepancy between the two scenarios.

I spoke to a person in Salem in the department working measure 37 issues and I was told that after we submit a claim with them it would be approved . For our future, please approve our request.

Barry C Wilson Appraisals
3238 Watercrest Rd
Forest Grove, OR 97116

March 16, 2005

Albert J & Deane M Dilnik
15725 NW Sheltered Nook Rd
Portland, OR 97231

Re: Property: 15725 NW Sheltered Nook Rd
Portland, OR 97231
Client: Albert J & Deane M Dilnik
File No: 0503028

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as improved, in unencumbered fee simple title of ownership. The final estimated Market Value of the subject is \$425,000.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached, along with additional comments in the Appraisal Addendum.

I was assisted in the preparation of this Appraisal Report by an appraiser assistant.

If I may be of further service to you, please do not hesitate to contact me.

Sincerely,



Barry C Wilson
Oregon State Certified
General Appraiser #C000345

A-2

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. 0503028

Valuation Section

ESTIMATED SITE VALUE		= \$	260,000
ESTIMATED REPRODUCTION COST-NEW-OF IMPROVEMENTS:			
Dwelling	1,683 Sq. Ft. @\$ 84.00	= \$	141,372
	756 Sq. Ft. @\$ 19.00	=	14,364
Garage/Carport Sq. Ft. @\$ _____ = _____			
Total Estimated Cost New = \$ 155,736			
Less	Physical	Functional	External
Depreciation	18,688		= \$ 18,688
Depreciated Value of Improvements Rounded = \$ 137,000			
"As-Is" Value of Site Improvements Site prep / landscaping = \$ 15,000			
INDICATED VALUE BY COST APPROACH Rounded = \$ 412,000			

Comments on Cost Approach (such as, source of cost estimate, site value, square foot calculation and for HUD, VA and FmHA, the estimated remaining economic life of the property): See attached addenda for building sketch and square foot calculations. Estimated reproduction cost new of improvements is derived from Marshall & Swift Residential Cost Handbook. Site value is estimated by market comparison. Assessed values are also compared.

ITEM	SUBJECT	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address	15725 NW Sheltered Nook Rd Portland	18211 NW Collins Rd North Plains		19401 NW Cleetwood Ave Portland		24005 NW Dixie Mountain Rd North Plains	
Proximity to Subject		6.30 miles		2.18 miles		6.19 miles	
Sales Price		\$ 387,500		\$ 307,500		\$ 440,000	
Price/Gross Living Area		\$ 203.41 / sq ft		\$ 166.22 / sq ft		\$ 153.63 / sq ft	
Data and/or Verification Source		RMLS #4032395 Realtor		RMLS #4077900 Realtor		RMLS #4043977 Doc Ref #113157	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.
Sales or Financing Concessions		Conventional Closing costs	-10,000	Pending Sale No concessions		Conventional Closing costs	-5,000
Date of Sale/Time		Closed 8/04		To close 3/28/05		Closed 10/04	
Location	Average	Average		Average		Average	
Leasehold/Fee Simple	Fee simple	Fee simple		Fee simple		Fee simple	
Site	20 acres	9.55	+50,000	1.80 acres	+90,000	5 acres	+75,000
View	Woods	Woods		Woods		Woods	
Design and Appeal	Cottage / Ave	Contemp / Ave		Ranch / Ave		Old-PDX / Ave	
Quality of Construction	Average	Average		Average		Average	
Age	72 A / 15 E	27 A / 15 E		34 A / 15 E		75 A / 5 E	-10,000
Condition	Average	Average		Average		Average	
Above Grade Room Count	Total : Bdrms : Baths 8 : 3 : 1	Total : Bdrms : Baths 6 : 2 : 2	-2,000	Total : Bdrms : Baths 8 : 3 : 2	-2,000	Total : Bdrms : Baths 9 : 4 : 3	-4,000
Gross Living Area	1,683 Sq. Ft.	1,905 Sq. Ft.	-8,900	1,850 Sq. Ft.	-6,700	2,864 Sq. Ft.	-47,200
Basement & Finished Rooms Below Grade	756 / 0% Fin None	None NA	+7,600	None NA	+7,600	576 / 0% Fin NA	+1,800
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	EFWA / Central	EFWA / Central		GFWA / None	+1,500	OFWA / None	+1,500
Energy Efficient Items	Average	Average		Average		Average	
Garage/Carport	None	None		None		2 Car Att	-5,000
Porch, Patio, Deck, Fireplaces, etc.	Porch, Patio, Deck 2 Fireplaces	Porch, Deck 1 Fireplace	+2,000	Deck Wood stove	+3,000	Porch, Deck 2 Fireplaces	+500
Fence, Pool, etc.	No Fence	No Fence		Fence	-1,000	Fence	-1,000
Updating	Miscellaneous	Miscellaneous		Miscellaneous		Extensive	
Net Adj. (total)		⊗ + ⊖ - \$ 39,200		⊗ + ⊖ - \$ 93,900		⊗ + ⊖ - \$ 6,600	
Adjusted Sales Price of Comparable		Net: 10.1% Gross: 20.9% \$ 426,700		Net: 30.5% Gross: 36.8% \$ 401,400		Net: 1.5% Gross: 34.3% \$ 446,600	

Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.): See attached Supplemental Text Addendum.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Data Source, for prior sales within year of appraisal	No sale within previous 3 years located in records	No sale within previous 3 years located in records	No sale within previous 3 years located in records	No sale within previous 3 years located in records

Analysis of any current agreement of sale, option, or listing of subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal: A review of the current sale agreement does not indicate any significant concessions on the sellers part. The property has been exposed to the market for a reasonable period of time.

INDICATED VALUE BY SALES COMPARISON APPROACH Estimated Market Rent \$ NA /Mo. x Gross Rent Multiplier NA = \$ NA

INDICATED VALUE BY INCOME APPROACH (if Applicable) Estimated Market Rent \$ NA /Mo. x Gross Rent Multiplier NA = \$ NA

This appraisal is made "as is" subject to the repairs, alterations, inspections or conditions listed below subject to completion per plans & specifications.

Conditions of Appraisal: None

Final Reconciliation: Direct sales comparison is the most reliable indicator of the subject's value. The Income Approach is not used, as typical purchasers are owner occupants and are not motivated by potential rental income. The Cost Approach establishes a more general estimate of value.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/FNMA form 1004B (Revised 6/93).

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF 3/11/2005 (WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$ 425,000

APPRaiser: Signature *Barry Wilson* Name Barry Wilson Date Report Signed 3/16/2005 State Certification # C000345 State OR Or State License #

SUPERVISORY APPRAISER (ONLY IF REQUIRED): Signature _____ Name _____ Date Report Signed _____ State Certification # _____ State _____

Did Did Not Inspect Property

UNIFORM RESIDENTIAL APPRAISAL REPORT MARKET DATA ANALYSIS

Additional Comparables for: 15725 NW Sheltered Nook Rd, Portland, OR 97231
Appraiser's File Number: 0503028

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

SALES COMPARISON ANALYSIS

COMMENTS

ITEM	SUBJECT	COMPARABLE NO. 4		COMPARABLE NO. 5		COMPARABLE NO. 6	
Address	15725 NW Sheltered Nook Rd Portland	16115 NW Elliot Rd Portland		14601 NW Nitchman Rd North Plains		19210 NW Logie Trail Portland	
Proximity to Subject		1.41 miles		5.33 miles		1.54 miles	
Sales Price	\$ NA	\$ 291,900		\$ 320,000		\$ 215,000	
Price/Gross Living Area	\$ NA	\$ 148.55 / Sq. Ft.		\$ 136.52 / Sq. Ft.		\$ 215,000 / 1,683 Sq. Ft.	
Data and/or Verification Sources		RMLS #3052499 Doc Ref #075719		RMLS #4003983 Doc Ref #069372		RMLS #4038822 Doc Ref #140247	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.
Sales or Financing		Conventional		Conventional		Used for Land	
Concessions		No concessions		No concessions		Value Only	
Date of Sale/Time		Closed 3/04		Closed 6/04		Closed 7/04	
Location	Average	Average		Average			
Leasehold/Fee Simple	Fee simple	Fee simple		Fee simple			
Site	20 acres	4.40 acres	+80,000	7.62 acres	+60,000	11.44 acres	+45,000
View	Woods	Woods		Pastoral		Woods	
Design and Appeal	Cottage / Ave	Ranch / Ave		Ranch / Ave			
Quality of Construction	Average	Average		Average			
Age	72 A / 15 E	40 A / 15 E		43 A / 5 E	-10,000		
Condition	Average	Average		Average			
Above Grade	Total Bdrms: Baths	Total Bdrms: Baths		Total Bdrms: Baths		Total Bdrms: Baths	
Room Count	8 3 1	8 4 2.5	-3,500	9 4 3	-4,000		
Gross Living Area	1,683 Sq. Ft.	1,965 Sq. Ft.	-11,300	2,344 Sq. Ft.	-26,400		
Basement & Finished Rooms Below Grade	756 / 0% Fin	None	+7,600	None	+7,600		
Functional Utility	Average	Average		Average			
Heating/Cooling	EFWA / Central	EBB / None	+3,000	OFWA / None	+1,500		
Energy Efficient Items	Average	Average		Average			
Garage/Carport	None	None		None			
Porch, Patio, Deck, Fireplace(s), etc.	Porch, Patio, Deck 2 Fireplaces	Porch, Deck None	+500 +4,000	Deck 1 Fireplace	+1,500 +2,000		
Fence, Pool, etc.	No Fence	No Fence		No Fence			
Updating	Miscellaneous	Miscellaneous		Extensive			
Net Adj. (total)		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 80,300		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 32,200		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 45,000	
Adjusted Sales Price of Comparable		Net 27.5% Gross 37.6% \$ 372,200		Net 10.1% Gross 35.3% \$ 352,200		Net 20.9% Gross 20.9% \$ 260,000	
Date, Price and Data Source for prior sales within year of appraisal	No sale within previous 3 years located in records	No sale within previous 3 years located in records		No sale within previous 3 years located in records		No sale within previous 3 years located in records	

Comments: See attached Supplemental Text Addendum.

Supplemental Text Addendum

File No. 0503028

Borrower/Client	NA		
Property Address	15725 NW Sheltered Nook Rd		
City	Portland	County	Multnomah
		State	OR
		Zip Code	97231
Lender	Private Party - Albert J & Deane M Dilnik		

COMMENTS REGARDING THE SUBJECT SITE

The subject site is approximately 25% cleared, with the balance of the site in timber. These percentages were provided by the owner. No timber value has been included in this report. The site is considered as a large acreage residential site, offering privacy and closeness to nature. There may be timber value over and above the final value recorded in this report.

There were no visible easements, encroachments or other adverse conditions noted.

There are no special assessments of record.

Zoning permits single family residences on a variety of site sizes. The required size of parcel for the construction of a new residence is variable and the Planning Department should be consulted for a specific site. The subject is grandfathered and can be rebuilt if destroyed.

Nothing in this appraisal analysis attempts to address Measure 37 impacts.

COMMENTS REGARDING SUBJECT IMPROVEMENTS

Summarized features of the property:

- There is wood flooring in the foyer, living room, hall and main floor bedrooms.
- Skylights in the upper bedroom.
- The windows are fully wrapped with wood.
- The family room has a fireplace with full height brick surround and hearth and a wood mantel. There are built in cabinets on both sides of the fireplace.
- The living room has a fireplace with brick surround and hearth and a wood mantel.
- The house has double pane vinyl and aluminum window units and some wood double hung windows.
- There is a vinyl double pane slider from the bonus room upstairs to a newer deck.
- The heat pump is approximately five years old.
- There are several miscellaneous out buildings on the property.
- The well serving the property is approximately 185' deep and pumps an adequate supply of water, according to the owner.

COMMENTS REGARDING THE SALES COMPARISON ANALYSIS

All major data sources were searched in an effort to identify better comps. It was impossible to locate any that were more appropriate than the ones selected. Even though four of the comps sold more than six months ago, they are all still considered the best available.

Comp #6 was a house of no value located on 11.44 acres. The adjusted sales price of that comp is a good indicator of the land value of the subject, and is used in the cost approach.

The adjustments at the Site line are calculated at \$5,000 per acre for differences between the subject and the comps. The differences in size are rounded to the nearest whole acre. The \$5,000 does not reflect the current market value of acreage, but the difference expected in the market place for incremental differences in small acreage sites.

The adjustments for updating are combined with effective age on the Age line.

The adjustments at the Room Count line are for differences in bathrooms only. Full baths are adjusted at \$2,000 and half baths at \$1,500.

Adjustments at the Gross Living Area are calculated at \$40 per square foot of floor area.

Unfinished basement areas are calculated at \$10 per square foot.

Adjustments at the Heating/Cooling line reflect a \$1,500 factor for a forced air heating system instead of a zonal type of heat. Central cooling is adjusted for by \$1,500.

Supplemental Text Addendum

File No. 0503028

Borrower/Client	NA						
Property Address	15725 NW Sheltered Nook Rd						
City	Portland	County	Multnomah	State	OR	Zip Code	97231
Lender	Private Party - Albert J & Deane M Diinik						

The adjustment at the Garage/Carport line reflects \$2,500 per garage parking space.

The adjustments at the Porch, Patio, Deck line reflect \$500 for a porch, \$500 for a patio and \$1,000 for a deck.

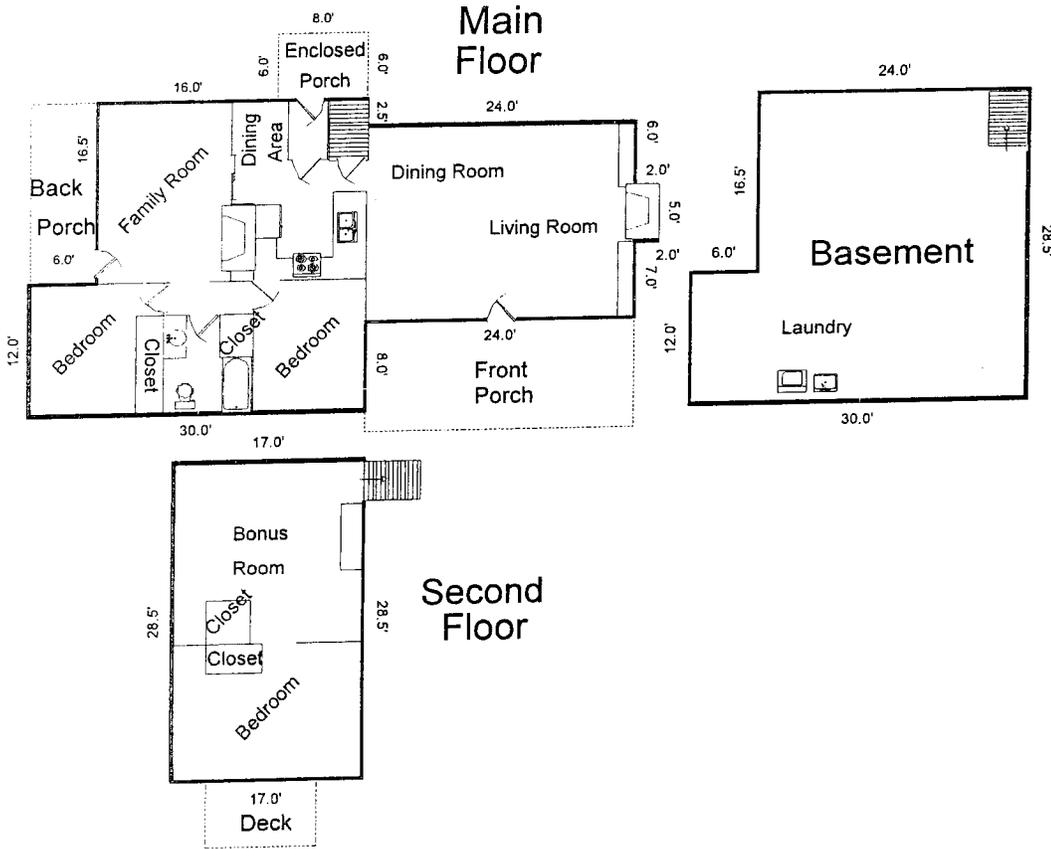
At the Fireplace line, adjustments reflect \$2,000 for each fireplace and \$1,000 for each wood stove.

Adjustments at the Fence, Pool, etc line reflect \$1,000 for fencing.

In arriving at the Indicated Value by Sales Comparison, the first five comps were all considered, with the most weight given to the first three sales.

Building Sketch

Borrower/Client NA			
Property Address 15725 NW Sheltered Nook Rd			
City Portland	County Multnomah	State OR	Zip Code 97231
Lender Private Party - Albert J & Deane M Dilnik			



Sketch by Apex IV™

Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1198.0	1198.0
GLA2	Second Floor Attic	484.5	484.5
BSMT	Basement	756.0	756.0
P/P	Deck	60.0	
	Porch	240.0	
	Covered Back Porch	99.0	
	Enclosed Porch	48.0	447.0
Net LIVABLE Area		(Rounded)	1683

LIVING AREA BREAKDOWN			
		Breakdown	Subtotals
First Floor			
2.0	x	5.0	10.0
18.0	x	24.0	432.0
16.0	x	28.5	456.0
6.0	x	12.0	72.0
8.0	x	28.5	228.0
Second Floor Attic			
17.0	x	28.5	484.5
6 Items		(Rounded)	1683

Subject Photos Page 1

Borrower/Client NA							
Property Address 15725 NW Sheltered Nook Rd							
City	Portland	County	Multnomah	State	OR	Zip Code	97231
Lender Private Party - Albert J & Deane M Dilnik							



Front



Rear

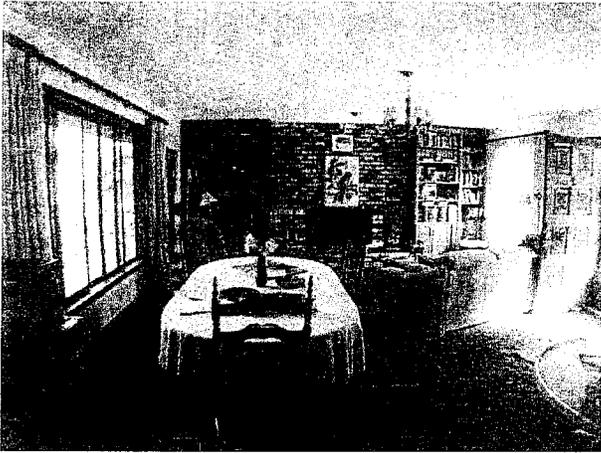


Street

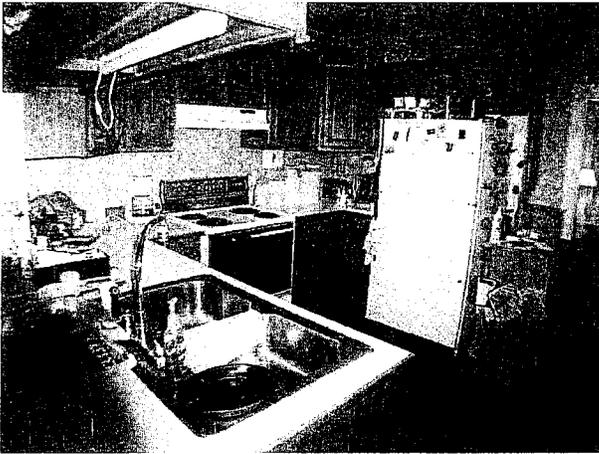
Subject Photos Page 2

Borrower/Client NA				
Property Address 15725 NW Sheltered Nook Rd				
City Portland	County Multnomah	State OR	Zip Code 97231	
Lender Private Party - Albert J & Deane M Dilnik				

Family Room



Kitchen



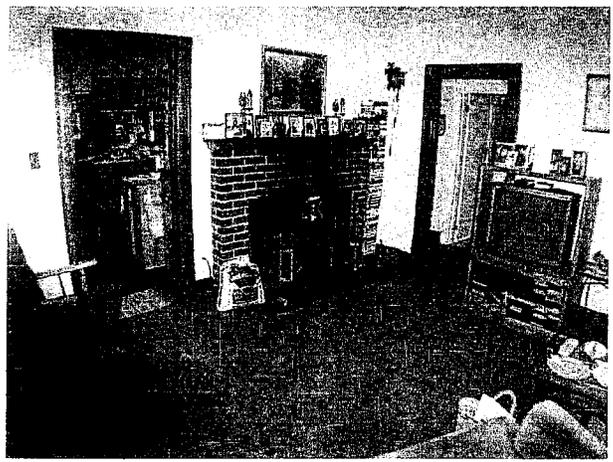
Bathroom



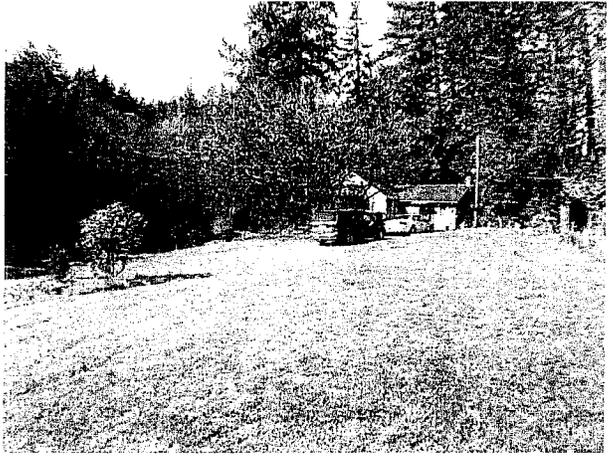
Subject Photos Page 3

Borrower/Client NA				
Property Address 15725 NW Sheltered Nook Rd				
City Portland	County Multnomah	State OR	Zip Code 97231	
Lender Private Party - Albert J & Deane M Dilnik				

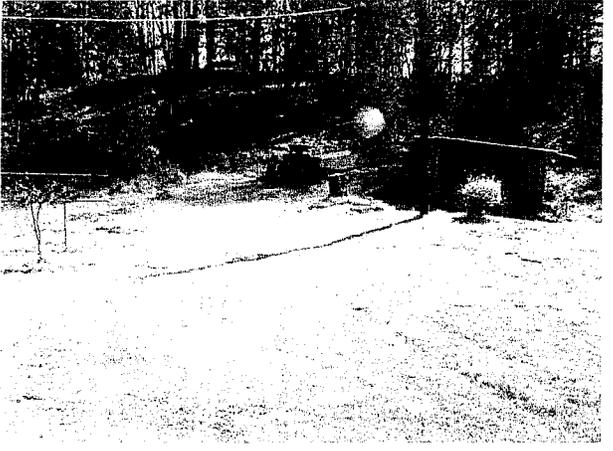
Living Room



Rear Of House & Grounds



Looking South From House





MULTNOMAH COUNTY, OREGON
PROPERTY RECORDS

PROPERTY INFORMATION

- Property Information
- Tax Summary
- Assessment History
- Improvement Information
- New Search
- Search Results
- Printable Summary
- Logoff

Search Results for R269576

Owner Name	Property ID Number
DILNIK,ALBERT J & DEANE M	R269576
Owner Address	Situs Address
15725 NW SHELTERED NOOK RD PORTLAND, OR 97231-2002	NW SHELTERED NOOK RD PORTLAND, OR 97231
Alternate Account Number	Neighborhood
R764203610	R220
Map Tax Lot - Get Map	Levy Code Area - Taxing Districts
2N1W19C -01700	002

Property Description

Deed	Instrument	Year
INST	28081733	
Exemption	Expiration Date	
Tax Roll Description	Map Number	
SHELTERED NOOK; LOT 37; EXC PT IN SHELTERED NOOK RD LOT 38	192N1W OLD	2N1W19C - 01700
Parcel	Account Status	
	A - Active	
Property Use	Year Built	Acreage
A - VACANT LAND		9.61
Related Accounts	Linked Accounts	

Split/Merge Account

Split/Merge Account Message

Special Account Information

- DEFERRAL - POTENTIAL ADDITIONAL TAX
- 2004 - (FC) FOREST LAND DEFERRAL
- 2004 - (FE) FOREST LAND DEFERRAL
- 2003 - (FC) FOREST LAND DEFERRAL
- 2003 - (FE) FOREST LAND DEFERRAL
- 2002 - (FC) FOREST LAND DEFERRAL
- 2002 - (FE) FOREST LAND DEFERRAL
- 2001 - (FC) FOREST LAND DEFERRAL
- 2001 - (FE) FOREST LAND DEFERRAL
- 2000 - (FC) FOREST LAND DEFERRAL
- 2000 - (FE) FOREST LAND DEFERRAL
- 1999 - (FC) FOREST LAND DEFERRAL
- 1999 - (FE) FOREST LAND DEFERRAL

2005 Land Information (Unedited and Uncertified)

ID	Type	Acres	Sq Ft
L1	FC - ZN A, CL C [FOREST LAND DEFERRAL]	6.61	
L2	FE - ZN A, CL E [FOREST LAND DEFERRAL]	3	

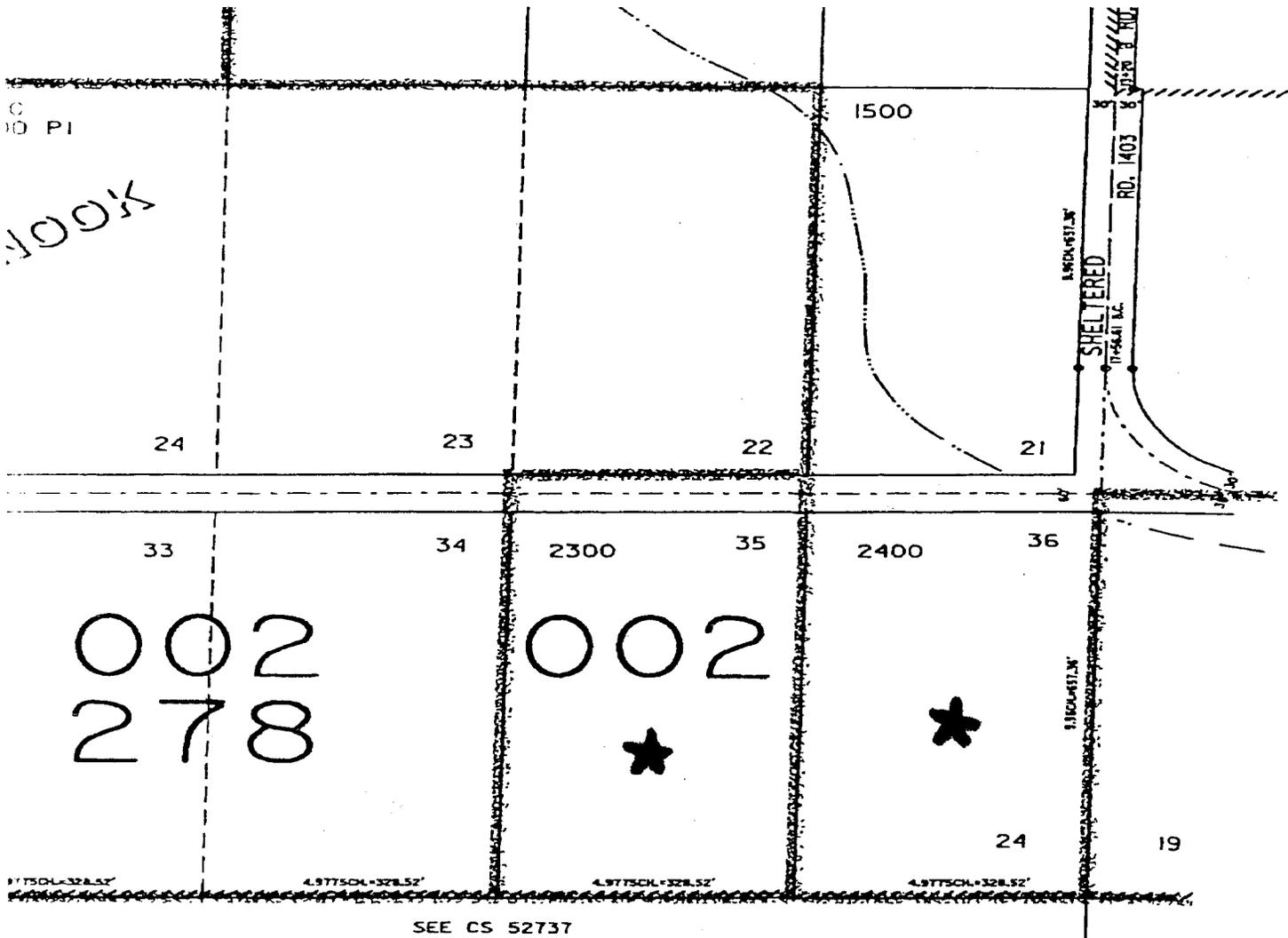
INFORMATION SUBJECT TO DISCLAIMER - SEE [HOME PAGE](#)



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TICOR TITLE INSURANCE

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



SEE MAP 2N IN 19C

 **TICOR TITLE INSURANCE COMPANY**

STATUS OF RECORD TITLE REPORT

TITLE PLANT

1629 SW Salmon • Portland OR 97205
(503) 224-0550 • FAX: (503) 219-2212

April 25, 2005

Ticor Title Insurance Company
Kathy Sexton
52131 Columbia River Highway
Scappoose OR 97056

Title Number: 842764
Regarding: Dilnik
Property Address: 15725 NW Sheltered Nook Road
Portland, OR 97231-2002
County: Multnomah

DATED AS OF: April 20, 2005, 8:00 am

PROPERTY

We have searched our Tract Indices as to the following described real property:

Lots 35, 36, 37 and 38, SHELTERED NOOK, County of Multnomah, State of Oregon.

VESTING

ALBERT J. DILNIK AND DEANE M. DILNIK, AS TENANTS BY THE ENTIRETY

RECORDED INFORMATION

Said property is subject to the following on record matter(s):

NOTE: Property taxes **PAID**

Tax Year: 2004-05

Tax Amount: \$36.56

Tax Acct Number: R269574, 2N2W24D-02300, Code 002

Affects: Lot 35

NOTE: Property taxes **PAID**

Tax Year: 2004-05

Tax Amount: \$1,697.26

Tax Acct Number: R269575, 2N2W24D-02400, Code 278

Affects: Lot 36

A-4

NOTE: Property taxes **PAID**

Tax Year: 2004-05

Tax Amount: \$50.47

Tax Acct Number: R269576, 2N1W19C-01700, Code 002

Affects: Lots 37 and 38

1. As disclosed by the tax rolls, the premises herein described have been zoned or classified for forestland. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
2. Rights of the public in and to that portion lying within Sheltered Nook Road.
3. Any adverse claim based upon the assertion that:
 - A) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the unnamed creek or has been formed by accretion to any such portion.
 - B) Some portion of said property has been created by deposit of artificial fill.
And Excepting;
 - C) The rights of the public and governmental bodies for fishing, navigation and commerce in and to any portion of the premises herein described, lying below the high water line of the unnamed creek.
 - D) The right, title and interest of the State of Oregon in and to any portion lying below the high water line of unnamed creek.
4. Covenants, Conditions and Restrictions, including the terms and provisions thereof, contained in Patent.

To: Robert Carr
Recorded Date: October 20, 1893
Recording Number: Book 205, Page 168
Affects: Lots 1 to 16 inclusive and Lots 21 to 36 inclusive

But omitting any covenant or restriction based upon race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons and omitting restrictions, if any, based on limitations on facilities authorized under provisions of ORS 443.400 to 443.455 (Residential Facilities and Homes) or 443.705 to 443.825 (Adult Foster Homes).
5. Rights to the "old roads" shown on the original plat of Sheltered Nook, recorded December 2, 1908 in Book 440, Page 56.

THIS REPORT IS TO BE UTILIZED FOR INFORMATION ONLY. Any use of this report as a basis for transferring, encumbering or foreclosing the real property described will require payment in an amount equivalent to applicable title insurance premium as required by the rating schedule on file with the Oregon Insurance Division.

The liability for TICOR TITLE INSURANCE COMPANY is limited to the addressee and shall not exceed the premium paid hereunder.

TICOR TITLE INSURANCE COMPANY

Kathie Healy

Kathie Healy
Title Officer



Wright-Christie & Assoc., Inc.

May 4, 2005

Albert & Deane Dilnik
15725 NW Sheltered Nook Rd
Portland, 97231

Dear Mr. and Mrs. Dilnik,

Thank you for giving me the opportunity of viewing your home and property.

As you know, I am not a licensed appraiser, and can not offer you a true "appraisal." However, I have worked in rural properties for nearly 20 years, and I know the Skyline area very well.

You have asked me to evaluate your property with the home on approximately five acres, and three five acre parcels. The values I give you assume that your home, along with access, well, and septic, are all on the one five acre lot.

Using those assumptions, I would price your home in the \$340,000 to \$360,000 price range. I have included several comparables including listings that are active, under contract but not yet closed, and closed sales.

Under normal circumstances, we would give the most weight to sold comparables. However, we are currently in a very strong sellers' market, and I am using active competition to help determine value.

In evaluating the three five acre parcels, I am assuming that they each have their own access, that they would pass a "perk" test for a septic tank system, and that potential buyers would have no more than the usual problems obtaining building permits. I have not "walked" each property, and issues such as topography, timber values, and any potential views, could alter the value of any one parcel. Keeping all of this in mind, I would use a starting price of \$160,000 per parcel. Obviously, any improvements you make to the property would increase the value.

As I stated above, we are currently experiencing a very strong sellers' market, and prices are climbing rapidly. Some experts are guessing that we are in a "bubble," and that prices will level out or even fall a bit in the near future. I would just say that property values are always subject to change, and that we should monitor the market constantly to track values.

If you have any further questions, please feel free to call me anytime.

Kimberly Marcellus, Broker
Century 21 Wright Christie & Assoc.

2645 SW 153rd Drive
Beaverton, OR 97006
Office (503) 644-2560
Fax (503) 626-2915

20795 NW Cornell Rd. #200
Hillsboro, OR 97123
Office (503) 533-4900
Fax (503) 533-5140

T1-05-042

List of Challenged Regulations

1. MCC 33.2210- Definition of "Tract"
2. MCC 33.2240(A)(1) – Requirement that the Lot of Record standards of MCC 33.2275 be met
3. MCC 33.2240(A)(1)(c) – Requirement that eleven lots and five dwellings be located within 160-acres of the site to qualify a template dwelling
4. MCC 33.2240(A)(1)(e) – Requirement that no other dwellings be located on the tract
5. MCC 33.2240(A)(1)(f) – Requirement that no other dwellings are allowed on other lots that make up the tract
6. MCC 33.2240(A)(1)(g) – Requirement that all lots that are part of the tract be precluded from all future dwelling rights
7. MCC 33.2240(A)(1)(h) – Requirement that no other lot part of the tract be used to qualify another tract for siting of a dwelling
8. MCC 33.2240(A)(5) – Requirement that long-term road access permit or agreement be provided
9. MCC 33.2240(B)(1)(b) – Requirement that a heritage tract dwelling can only be located on a tract not capable of producing 5,000 cubic feet per year of commercial timber
10. MCC 33.2240(B)(1)(c) – Requirement that the heritage tract dwelling be located within 1,500 feet of a public road
11. MCC 33.2240(B)(3) – Requirement that when the proposed tract consists of more than one lot that the remaining lots be consolidated into a single lot prior to issuance of development permits.
12. MCC 33.2260(C) – Dimensional requirements for new structures
13. MCC 33.0005(L)(13) – Lot of Record definition
14. MCC 33.2275(A)(1) & (2) – Lot of Record Requirements
15. MCC 33.2305(A)(5)(d) – Development standard requiring the building site slope less than 40 percent.

SPECIAL WARRANTY DEED—STATUTORY FORM
INDIVIDUAL GRANTOR

BOOK 2808 PAGE 1733

BEN RALPH PETERSON AND EARL ALFRED PETERSON Grantor,
conveys and specially warrants to ALBERT J. DILNIK AND DEANE M. DILNIK, husband & wife Grantee,
the following described real property free of encumbrances created or suffered by the Grantor except as specifically set forth herein, situated in Multnomah County, Oregon to-wit:

Lots 35, 36, 37, and 38, SHELTERED NOOK, in the County of Multnomah and State of Oregon; subject to the right of the public in and to the portions in streets and roads.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The said property is free of all encumbrances created or suffered by the Grantor except forest land tax deferral, conditions, reservation and exceptions set forth in the Patent to Robert Carr of record and any encumbrances suffered by the grantee hereinafter April 12, 1966.

The true consideration for this conveyance is \$23,500.00. (Here comply with the requirements of ORS 93.030)
THIS DEED IS GIVEN IN FULFILLMENT OF THAT CERTAIN CONTRACT OF SALE BY AND BETWEEN
THE GRANTOR AND GRANTEE THEREIN, DATED April 5, 1966, RECORDED April 12, 1966,
IN BOOK 485 PAGE 66, DEED RECORDS.

Dated this 9th day of January, 1991.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS, BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Ben Ralph Peterson
BEN RALPH PETERSON

Earl Alfred Peterson
EARL ALFRED PETERSON



NOTARY STATE OF OREGON, County of Multnomah, ss. January 9th, 1991

Personally appeared the above named *Ben Ralph Peterson*
and *Earl Alfred Peterson*
and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: *Cynthia D Richter*
Notary Public for Oregon—My commission expires: 5-19-91

(OFFICIAL SEAL)

SPECIAL WARRANTY DEED

BEN RALPH PETERSON GRANTOR
EARL ALFRED PETERSON GRANTEE
ALBERT J. DILNIK AND DEANE M. DILNIK GRANTEE'S ADDRESS, ZIP

ALBERT J. DILNIK AND DEANE M. DILNIK
15725 NW SHELTERED NOOK ROAD
PORTLAND, OREGON 97231

NAME, ADDRESS, ZIP

Until a change is requested, all tax statements shall be sent to the following address:
ALBERT J. DILNIK & DEANE M. DILNIK
15725 NW SHELTERED NOOK ROAD
PORTLAND, OREGON 97231

NAME, ADDRESS, ZIP

STATE OF OREGON,

STATE OF OREGON }
Multnomah County

I, a Deputy for the Recorder of Conveyances, in and for said County, do hereby certify that the within instrument of writing was received for record and recorded in the record of said County

93 DEC 28 PM 12:45

RECORDING SECTION
MULTNOMAH CO. OREGON

in Book BOOK 2808 PAGE 1733

witness my hand and seal of office affixed.

Recorder of Conveyances

C Swick

Deputy

178778

320

A-7

Smith-Wagoner Co. (a corporation) to the Public.

We, Smith-Wagoner Co., a corporation, declare the annexed map to be a true plat of the property owned and laid out by us as "Sheltered Nook", situated and described as follows, to-wit :

Southeast one-quarter (1/4) of Section twenty-four (24), Township two (2) North, Range two (2) West, and the southwest one-quarter (1/4) of southwest one-quarter (1/4) of Section nineteen (19), Township two (2) North, Range one (1) West of Willamette Meridian. Situated in Multnomah County, Oregon.

We hereby dedicate to the use of the public forever the roads as laid out thereof, without exception or reservation.

Smith-Wagoner Co. (Incorporated).

L. H. Smith (seal) President.

Harry E. Wagoner (seal) Treasurer.

IN WITNESS WHEREOF, the Smith-Wagoner Co., pursuant to a resolution of its Board of Directors duly and legally adopted, has caused these presents to be signed by its President and Secretary, and its corporate seal to be hereunto affixed, this 23rd day of November, A. D. 1908.

Signed, sealed and delivered in

the presence of us as witnesses :

Eva Jearnet.

L. O. Leonard.

Smith-Wagoner Co.

L. H. Smith (seal) President.

Harry E. Wagoner (seal) Treasurer.

STATE OF OREGON, }
County of Multnomah) ss.

SURVEYOR'S CERTIFICATE.

I, William Anderson, being first duly sworn, depose and say that I have surveyed the tract of land as represented on the annexed plat called Sheltered Nook; that I have accurately surveyed and marked the same with suitable monuments, taking for the initial point of said survey the southeast corner of Sec. 24, township 2.N. of rang 2 W. of the Willamette meridian, Multnomah county, state of Oregon; the same being marked by a cedar post three inches by three inches by thirty-six inches.

Witness :

Harry E. Wagoner.

Eva Jearnet.

Wm. Anderson.

seal

STATE OF OREGON, }
County of Multnomah) ss.

THIS CERTIFIES, That on this 27th day of October A. D. 1908, before me the undersigned, a Notary Public in and for said County and State, personally appeared the within named William Anderson, who is known to me to be the identical individual described in and who executed the within instrument, and acknowledged to me that he executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial seal the day and year last above written.

(Notarial Seal.)

Harry E. Wagoner

Notary Public for Oregon.

Taxes from 1901 to 1907 inclusive are "Paid". R. L. Stevens Sheriff.

S. B. Martin Deputy.

All taxes prior to 1901 due Multnomah County Paid.

F. S. Fields County Clerk.

By F. G. Wilde Deputy.

Approved- Dec. 2, 1908.

B. D. Sigler Assessor.

Martin T. Pratt Dept.

Approved- Dec. 2, 1908.

Philo Holbrook Jr.

Co. Surveyor.

Approved December 2nd, 1908.

Lionel R. Webster County Judge.

F. O. Barnes County Commissioner.

W. L. Lightner County Commissioner.

(No. Court Seal.) Attest : F. S. Fields

county Clerk.

Received for Record Dec. 2, 1908, at 10:56 A. M.

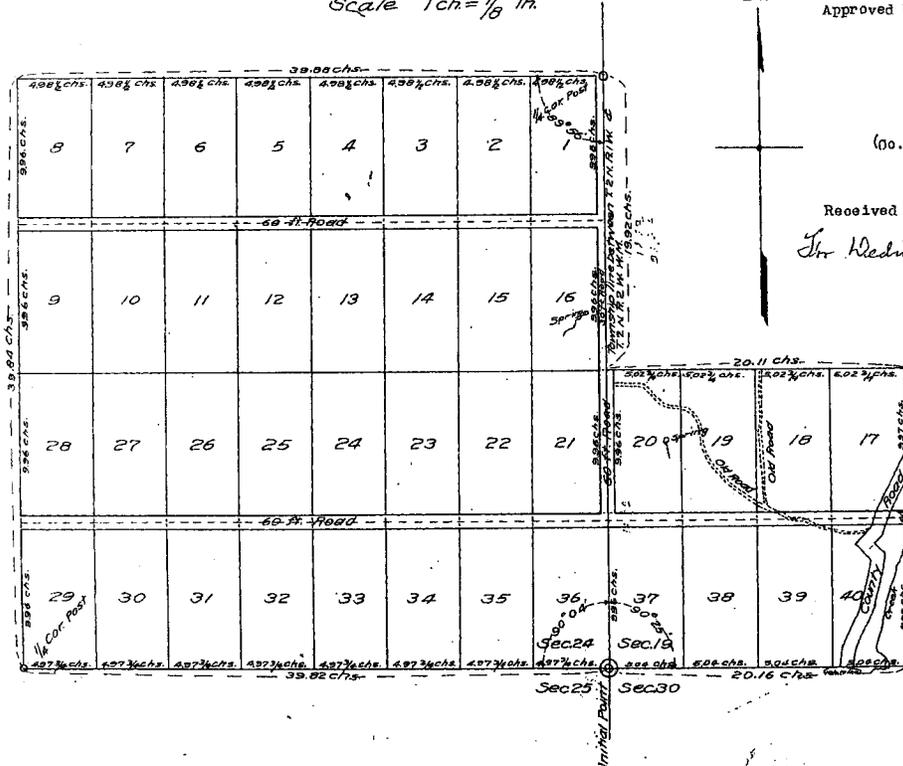
For Medication See Dead Box No 528 Page 115 Jan 11/1911

PLAT OF SHELTERED NOOK

Being a Subdivision into 5 Acre Tracts of the SE 1/4 of Sec. 24 T. 2. N. R. 2. W. and the SW 1/4 of S. W. 1/4 of Sec. 19 T. 2. N. R. 1. W. Will. Mer.

Situated in Multnomah County Oregon

Scale 1 ch. = 1/8 in.



MEASURE 37 CLAIM FORM

05 JUL 12 PM 3:19
PLANNING SECTION

CLAIMANT INFORMATION:

Name: ALBERT & DEANE DILNIK
Mailing Address: 15725 N.W. SHELTERED NOOK RD
City: PORTLAND State: OR Zip Code: 97231
Phone: 503 621 3341 Fax: _____

OFFICE USE:
File Number: TI-05-012
Date Received: 7/12/05
Zoning: CFU-2

SAP# 4342

Please check as applicable:

- I am the sole owner or interest holder in the property for which I am making this claim.
- There are others with an ownership interest, security interest, or other interest in the property for which I am making this claim, as listed in the attachments.
- There are others with an ownership interest, security interest or other interest in the property as listed in the attachments; however, **this claim is on my behalf only.**

PROPERTY INFORMATION:

Street Address: 15725 N.W. SHELTERED NOOK RD Map Tax Lot: 2N2W-24D-35436
A&T Alternate Acct No. (9 digits): R764203510 Date Property Acquired: APRIL 5, 1966

BASIS FOR CLAIM (ATTACH IF SEPERATELY PREPARED): R764203410, R764203610

The regulation that restricts the use of the property (include code citation): See Submitted Attachments
West hills rural plan area, Commercial Forestall CFU 2
Starting with 33.2200

Describe the manner and extent to which the regulation restricts the use of the property:
These regulations prohibit - in transferring ownership -
the right to build on said property is lost, which
greatly reduces the value of each lot.

PREFERRED RESOLUTION (CHECK ONE):

- Monetary payment of claim. Amount of claim \$ _____
- Modification of applicable land use regulation (describe desired modification): _____

Waive the applicable regulation.

By signing below, I am certifying that the information contained in and attached to this form is accurate and complete.

Albert Dilnik & Deane Dilnik
Claimant's Signature

7-1
Date:

A-8

MEASURE 37 TEXT

The following provisions are added to and made a part of ORS chapter 197:

- (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.
- (2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.
- (3) Subsection (1) of this act shall not apply to land use regulations:
 - (A) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;
 - (B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
 - (C) To the extent the land use regulation is required to comply with federal law;
 - (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or
 - (E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.
- (4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.
- (5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land

use regulations enacted after the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

- (6) If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under this act, the present owner of the property, or any interest therein, shall have a cause of action for compensation under this act in the circuit court in which the real property is located, and the present owner of the real property shall be entitled to reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred to collect the compensation.
- (7) A metropolitan service district, city, or county, or state agency may adopt or apply procedures for the processing of claims under this act, but in no event shall these procedures act as a prerequisite to the filing of a compensation claim under subsection (6) of this act, nor shall the failure of an owner of property to file an application for a land use permit with the local government serve as grounds for dismissal, abatement, or delay of a compensation claim under subsection (6) of this act.
- (8) Notwithstanding any other state statute or the availability of funds under subsection (10) of this act, in lieu of payment of just compensation under this act, the governing body responsible for enacting the land use regulation may modify, remove, or not to apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.
- (9) A decision by a governing body under this act shall not be considered a land use decision as defined in ORS 197.015(10).
- (10) Claims made under this section shall be paid from funds, if any, specifically allocated by the legislature, city, county, or metropolitan service district for payment of claims under this act. Notwithstanding the availability of funds under this subsection, a metropolitan service district, city, county, or state agency shall have discretion to use available funds to pay claims or to modify, remove, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this act. If a claim has not been paid within two years from the date on which it accrues, the owner shall be allowed to use the property as permitted at the time the owner acquired the property.
- (11) Definitions – for purposes of this section:
 - (A) “Family member” shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,

mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

- (B) "Land use regulation" shall include:
- (i) Any statute regulating the use of land or any interest therein;
 - (ii) Administrative rules and goals of the Land Conservation and Development Commission;
 - (iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
 - (iv) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
 - (v) Statutes and administrative rules regulating farming and forest practices.
- (C) "Owner" is the present owner of the property, or any interest therein.
- (D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.
- (12) The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitutions, and is not intended to modify or replace any other remedy.
- (13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

RECEIVED
03 MAR 14 PM 3 34
BILL BRADBURY
SECRETARY OF STATE

REAL PROPERTY COMPENSATION LAW

(Ord. 1055, Added, 12/02/2004)

§ 7.500- PURPOSE.

The purpose of this subchapter is to implement Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and to:

- establish a procedure to process demands for compensation (claims) quickly, openly, thoroughly, and consistent with the law;
- enable present real property owners (claimants) making claims to have an adequate and fair opportunity to present their claims to the county's Board of County Commissioners (Board);
- provide the Board with the factual and analytical information necessary to adequately and fairly consider claims;
- ascertain county liability for compensation apart from State of Oregon (State) and Metropolitan Service District (Metro) liability;
- take appropriate action under the alternatives provided by law;
- to preserve and protect limited public funds;
- preserve and protect the interests of the community by providing for public input into the process of reviewing claims; and
- establish a record of decisions capable of withstanding legal review.

(Ord. 1055, Added, 12/02/2004)

§ 7.505 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply:

APPRAISAL. A written appraisal concluding to Fair Market Value of real property prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to

ORS Chapter 674 and meeting the appraisal requirements set forth in Uniform Standards of Professional Appraisal Practice (USPAP). In the case of commercial or industrial property, the term "appraisal" additionally means a written appraisal concluding to Fair Market Value prepared by an appraiser holding an MAI qualification (Member Appraisal Institute), as demonstrated by written certificate.

CLAIM. The "written demand for compensation" required to be made by an "owner" of "real property" under Ballot Measure 37. Demands shall not be considered made under Ballot Measure 37 until the county accepts the demand as complete, i.e. meeting the requirements for making a demand under this subchapter.

CLAIMANT. Present owner(s) of real property. See definition for "owner."

DEMAND. "Claim" and "written demand for compensation" as defined herein.

DIRECTOR. The Planning Director for Multnomah County.

EXEMPT LAND USE REGULATION. Those land use regulations that are specifically listed as exempt from compensation or waiver requirements as set forth in Ballot Measure 37 and in MCC 7.510.

FAMILY MEMBER. The wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

LAND USE. A physical improvement on real property related to use of the land or an activity which is conducted on real property (examples: residential use, commercial use, industrial use, community service use, farm use or forest use). A further division of real property is not a land use.

LAND USE REGULATION. Includes:

- (1) Any statute regulating the use of land or any interest therein;
- (2) Administrative rules and goals of the Land Conservation and Development Commission;
- (3) Multnomah County's comprehensive plan, zoning ordinance, land division ordinance, or transportation ordinance of Multnomah County; and,
- (4) Metro's regional framework plans, functional plans, planning goals and objectives.

OWNER. The present owner(s) of real property, or any interest therein, which is the subject of a claim. The owner is a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property, including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

PROPERTY. Private real property, or interest therein, as described in a deed or other legal instrument, which existed on the date of the claim.

REDUCTION IN VALUE. The difference in the fair market value, if any, of the property with certain land use regulations enforced or applied; and the fair market value of the subject property without those land use regulations enforced or applied to the property.

RESTRICTS THE USE. A land use regulation that prohibits a land use or limits the manner in which it can be established on the property.

VALID CLAIM. A claim submitted by the owner of real property that is subject to a land use regulation enacted and/or enforced by Multnomah County that restricts the use of the private real property in a manner that reduces the fair market value of the real property and meets all the requirements of MCC 7.500 *et. seq.*

WRITTEN DEMAND FOR COMPENSATION. "Claim" or "demand" as defined herein.
(Ord. 1055, Added, 12/02/2004)

§ 7.510 APPLICABILITY AND EXCEPTIONS.

(A) An owner of private real property located within unincorporated Multnomah County may file a claim under this subchapter if the county enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of Ballot Measure 37, which amended Oregon Revised Statutes Chapter 197, and it restricts the use of private real property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

(B) This subchapter, in compliance with ORS Chapter 197, as amended by Ballot Measure 37, does not allow claims for certain categories of regulations which may reduce the fair market value of the property, or any interest therein. The categories of regulations that are exempt from claims for compensation include the following:

(1) A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law and the criminal laws of Oregon and Multnomah County;

(2) A regulation restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, pollution control regulations, including, but not limited to the following:

a) The County Hillside Development zoning overlay is necessary to protect public health and safety and minimize pollution, ensuring that earthwork on steep slopes or areas susceptible to sloughing or debris flows is undertaken such that it does not compromise slope stability or cause excessive erosion,

b) Grading and Erosion Control regulations are building codes necessary to protect pub-

lic health and safety and minimize pollution by limiting soil erosion attributed to earthwork, and

c) Flood Hazard regulations are building codes necessary to protect health and safety to minimize loss due to flood conditions and allow property owners within the County to participate in the National Flood Insurance Program.

(3) A county regulation required to comply with federal law; and specifically no claims will be accepted for those properties situated within the Columbia River Gorge National Scenic Act area. These properties are exempt from ORS 197, as amended by Ballot Measure 37. The county comprehensive plan and zoning code provisions applicable to these properties are regulations required to comply with federal law.

(4) A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(5) A regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

(6) Land division regulations, except where they restrict the use of a property.
(Ord. 1055, Added, 12/02/2004)

§ 7.515 SCOPE OF CLAIMS.

(A) An owner of private real property located within unincorporated Multnomah County, or an owner of contiguous parcels purchased at the same time, who asserts a right to compensation under ORS 197, as amended by Ballot Measure 37, shall make a claim for compensation as provided in this subchapter. Owners of noncontiguous properties, or contiguous properties purchased at different times, must file separate claims.

(B) Claims based on regulations that contain discretionary criteria for approval of development on a property may only be filed after Multnomah County has enforced its regulations through approval or denial of a land use application. Such an approval or

denial is necessary to establish whether a particular land use regulation “restricts the use” of a property. (Ord. 1060, Amended, 05/19/2005; Ord. 1055, Added, 12/02/2004)

§ 7.520 CONTENT OF WRITTEN CLAIM.

(A) A Claim pursuant to MCC 7.510 shall only be submitted to and accepted for review by the Director, or the Director’s designee, and shall include the following information:

(1) A description of the private real property for which the owner is claiming compensation, including the street address and either a legal description or a County Tax Assessor’s description of the property, specifically identifying whether the claim relates to real property other than land or, to a portion of the ownership less than fee simple absolute;

(2) The name, address, and telephone number of all owners and anyone with an interest in the property, including lien holders, trustees, renters, and lessees, together with a description of the ownership interest of each;

(3) The date the claimant acquired ownership of or an interest in the private real property and a copy of the document which provides proof of first ownership;

(4) A title report, including title history, current within 30 days prior to the claim date, verifying the ownership or interests in the private real property;

(5) Copies of any land use decisions claimant believes are related to the claim.

(6) If the claim is based upon the date a family member acquired the property, then documentation sufficient to establish the familial relationship along with a chain of title showing continual ownership;

(7) Copies of any Covenants, Conditions and Restrictions (CCR’s), leases, or other encumbrances applicable to the real property;

(8) Identification of the specific land use regulation which restricts the owner's use of the real property, and for which the owner is claiming compensation;

(9) A statement describing the manner in which, and the extent to which, the regulation restricts the use of the private real property and has the effect of reducing the fair market value of the property for which the owner is claiming compensation;

(10) The amount of the reduction in value claimed, supported by an appraisal of the private real property for which the owner is asserting a claim.

(a) If the value of the claim exceeds \$1 million, a second appraisal by a second appraiser is required, or the Director may accept alternative data in lieu of the second appraisal to substantiate the value of the claim. Alternative data must be in writing and may include but is not limited to, detailed sales information verified by a real estate broker of comparable properties or other evidence of the difference in value of parcels with and without the right to use the property in a manner prohibited by existing land use regulations.

(b) Notwithstanding subsection (a), the validity of a claim seeking a waiver of land use regulations for placement of a single dwelling on a parcel, may be based solely upon alternative data. A claim for compensation shall not be granted based solely on alternative data.

(11) A statement of the relief sought by the owner, such as a monetary payment in a specific amount; waiver of the applicable regulation; or modification of the applicable regulation. If a modification of the regulation is sought, then a description of the desired modification must be included;

(12) Payment of any required claim processing fee; and

(13) The signature of the claimant.

(B) The Director shall conduct a completeness review within 30 days after submittal of the claim and shall advise the owner, in writing, of any material remaining to be submitted. Once all of the required materials for a complete claim are received, the Director shall declare the claim complete and send the notice required by MCC 7.530(A) and (B).

(C) Commencement of the 180-day period allowed for local government claim procedures prior to any cause of action being authorized for the owner in circuit court as specified in Oregon Revised Statutes Chapter 197 starts on the date the Director deems the claim complete and accepts it for filing.

(Ord. 1060, Amended, 05/19/2005; Ord. 1055, Added, 12/02/2004)

§ 7.525 CLAIM PROCESSING FEES.

(A) The Claim Processing Fees shall cover the actual administrative costs to county for processing a claim. An owner shall pay a retainer of \$1500 at the time they submit a claim to the Director. Following final action by the county on the claim, the Director shall provide an accounting of the actual administrative costs, including staff and legal costs, that the county incurred in reviewing and acting on the claim. County shall refund any excess funds from the retainer to the owner within 30 days after the final decision, or shall bill for additional costs not covered by the retainer.

(B) A billing for the amount of the unpaid administrative costs for processing the claim shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be made to the Director within 30 days from the billing date set out on the bill.

(C) If the property owner does not pay the amount due within 30 days of the billing date, county may pursue collection, including filing a lien on the property. The lien is perfected by filing it with the County Recorder's Office in the deed records indicating the amount of the lien, the basis for the lien and the property to which the lien attaches.

(D) The lien provided for in subsection (C) shall be given priority over all liens except those for taxes

and assessments and shall include interest at 0.5% per month accruing from the date the billing is sent to the owner of the property.

(E) The lien provided for in subsection (C) shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

(F) In compliance with MCC 37.0560, no permits will be approved on properties with a lien for unpaid processing fees required by this subsection.

(G) County shall collect reasonable attorney's fees and costs for collection of the debt, which may be made part of the lien and the debt.
(Ord. 1055, Add, 12/02/2004)

§ 7.530 CLAIM REVIEW PROCESS.

(A) After a claim for compensation is declared complete pursuant to MCC 7.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate.

(B) The Director's notice under subsection (A) shall:

(1) Indicate the date that the claim was filed;

(2) State the basis of the claim, the amount of the compensation or waiver sought and the land use regulation that the owner asserts gives rise to a claim;

(3) Identify the property by the street address or other easily understood geographical reference;

(4) State that persons noticed may provide written comments on the claim, and provide the date written comments are due;

(5) Indicate a timeframe within which the Board will take action on the claim and identify how

interested persons can learn of the specific date the Board will meet on the matter, once a meeting date is set;

(6) Provide the name and phone number of a county representative who can be contacted for additional information; and

(7) State that a copy of the claim and the supporting documents submitted by the owner are available for inspection at no cost, or that copies will be provided at reasonable cost.

(C) Written comments regarding a demand may be submitted to the Director by any interested person. Comments must be received by the Director within 14 days from the date of the notice required under subsections (A) and (B) above. The owner shall have an additional 7 days after the deadline set out above to respond to any written comments received by the Director. It is the duty of the owner to determine if comments have been received by the Director.

(D) The Director shall prepare a draft staff report within 30 days after the comment period has ended. The report shall apply the standards of Oregon Revised Statutes Chapter 197, as implemented through this subchapter, to the claim.

(E) After the Director has completed a draft staff report, the Director shall send a copy of it to Assessment and Taxation for review of the appraisal(s) submitted by the owner and shall send a copy of it to the County Attorney's Office for review. Assessment and Taxation and the County Attorney's Office will have 30 days for review.

(F) After the Director receives the comments from Assessment and Taxation and the County Attorney's Office, the Director will prepare a final staff report and make it available to the public at least 10 days prior to the Board meeting. The final staff report shall include options for Board action.

(G) The Board shall conduct a public hearing before taking final action on the claim. The procedures for the hearing must include, but are not limited to staff presentation and public testimony, followed by deliberation and a decision by the Board.

(H) The Board's options for its decision include, but are not limited to the following:

(1) Find the claim invalid and issue a Board Order to deny the claim based on one or more of the following findings:

(a) The land use regulation does not restrict the use of the private real property;

(b) The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;

(c) The demand was not timely filed;

(d) The owner failed to comply with the requirements for making a demand as set forth in this subchapter;

(e) The owner is not the present property owner, or the property was not owned by a family member or the claimant was not the property owner at the time the land use regulation was enacted, enforced or applied;

(f) The land use regulation is an exempt regulation as defined in Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004;

(g) The land use regulation in question is not an enactment of the county;

(h) The county has not taken final action to enact, or enforce the land use regulation to the property;

(i) The owner is not entitled to compensation under Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, for a reason other than those provided herein.

(2) Find the claim valid and issue a Board Order to award compensation, either in the amount requested, or in some other amount supported by the

evidence in the record, subject to the availability and appropriation of funds for that purpose;

(3) Find the claim valid and issue a Board Order to modify the regulation which restricts the use beyond those restrictions in place on the property at the time the owner acquired the property; or

(4) Find the claim valid and issue a Board Order to waive the regulation which restricts the use beyond those restrictions in place on the property at the time the owner acquired the property.

(I) If the Board modifies or waives the challenged county land use regulation in response to a claim by owner, the modification or waiver is valid only as to the owner during owner's ownership of the property for those regulations listed in the claim which were found by the Board to be valid; all other current regulations remain in effect. The Board may, at its discretion, reinstate any or all of the land use regulations in effect at the time the owner acquired the property. A Board waiver is not a waiver of any state law or Metro Code provision.

(J) The final decision on a claim shall be made by the Board. After review the Board shall, under the standards of Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37 determine whether compensation is granted, the amount of compensation if any, whether any exceptions to the requirement for compensation apply or whether the regulation should be modified, removed or deemed not to apply to the property. A copy of the Board Order shall be sent by mail to the owner and to each individual or entity that participated in the Director or Board process, provided a mailing address was provided to the Director as part of the claim process.

(K) Waiver of a county land use regulation does not constitute a waiver of any corresponding state statutes.

(L) Any right obtained by a claimant through the Board's grant of a waiver of county land use regulations is transferable only to the extent allowed by law.

completed demand, the owner's reasonable attorney fees and expenses necessary to collect compensation will be added as additional compensation provided compensation is awarded to the owner. If such demand is denied, not fully paid, or other action taken under Oregon Revised Statutes Chapter 197, within 180 days of the date of filing a completed demand, and the owner commences suit or action to collect compensation, if county is the prevailing party in such action, then county shall be entitled to any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees.

(B) In the event county is the prevailing party and is represented by "in-house" counsel, the prevailing party shall nevertheless be entitled to recover reasonable attorney fees based upon the reasonable time incurred and the attorney fee rates and charges reasonably and generally charged and paid in Multnomah County, Oregon for the type of legal services performed.

(Ord. 1055, Add, 12/02/2004)

§ 7.550 AVAILABILITY OF FUNDS TO PAY CLAIMS.

Compensation can only be paid based on the availability and appropriation of funds for this purpose.

(Ord. 1055, Add, 12/02/2004)

§ 7.555 PRIVATE RIGHT OF ACTION.

If the Board's approval of a claim by removing or modifying a land use regulation causes a reduction in value of other property located in Multnomah County, the affected party shall have a cause of action in state circuit court to recover from the claimant the amount of the reduction, and shall also be entitled to attorney's fees.

(Ord. 1055, Add, 12/02/2004)

§ 7.560 APPLICABLE STATE LAW.

For all demands filed, the applicable state laws are those portions of Oregon Revised Statutes Chapter 197 added or made a part of said Chapter by Ballot Measure 37, passed on November 2, 2004 and/or as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon

State Legislature, Oregon State Administrative Agencies or MCC 7.500 *et. seq.* Any demand that has not been processed completely under this subchapter shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and this subchapter shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level.

(Ord. 1055, Add, 12/02/2004)

§ 7.565 SEVERABILITY CLAUSE.

The provisions, sections and subdivisions of this Ordinance, shall be considered to be severable, so that if any provision, section and/or subdivision, or its application to any person or circumstance, is altered, amended, abrogated, repealed, superseded by state law or held invalid, the remainder of the particular provision, section and/or subdivision or Ordinance, or the application thereof to other persons or circumstances, shall not be deemed affected.

(Ord. 1060, Added, 05/19/2005)

3.15 SUBURBAN-RESIDENTIAL-DISTRICT - SR

- 3.151 PURPOSE. This section provides minimum standards designed to assure the orderly and beneficial development of the district as the area becomes more densely populated and assumes urban characteristics. No provision of this section shall regulate lands used for grazing, agriculture, horticulture or for the growing of timber.
- 3.152 USE. No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the following uses:
- 3.1521 Single family dwellings
- 3.1522 Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached.
- 3.1523 On lots of forty-thousand (40,000) square feet or larger, dwelling or dwellings for owner, operator and/or help required to carry out grazing, agriculture, horticulture or the growing of timber.
- 3.1524 Grazing, agriculture, horticulture, or the growing of timber, provided that no retail or wholesale business sales office is maintained on a lot of less than two (2) acres and provided that no poultry or livestock, other than normal household pets, shall be housed within one hundred (100) feet of any residence other than a dwelling on the same lot.
- 3.1525 Special Uses:
- (a) Parks, playground or community centers, golf courses and other uses of a similar nature as provided in the Community Service Section (7.00), when approved by the Planning Commission.
- (b) Churches and schools, subject to the review of the Planning Commission and the restrictions provided in Section 7.20.
- 3.1526 Temporary structures may be allowed in this district if these structures relate to the building or sale of land or homes, provided, however, that a temporary permit shall be issued for these structures by the Board of Adjustment. This permit shall expire at the end of one (1) year, but may be renewed by the Board of Adjustment at the end of that p

3.1527 Where the side of a lot abuts on a commercial or industrial district, the following transitional uses are permitted provided they do not extend more than one hundred (100) feet into the more restricted (residential) district.

- (a) Two-family dwellings.
- (b) Medical offices, dental offices, and clinics.
- (c) Parking, as required in Section 6.20.
- (d) Other uses of a transitional nature as determined by the Planning Commission. These transitional uses shall conform to all other requirements of this Ordinance which apply.

3.1528 Signs. The following signs, non-illuminated, shall be permitted in this district.

- (a) A sign advertising the sale or rental of a premises; of a temporary nature, with a maximum area on one side of eighty (8) square feet, when erected at least ten (10) feet behind the front property line.
- (b) A sign advertising the sale of a tract of land or a legally approved subdivision or development of a temporary nature, with a maximum area on one side of eight (80) square feet, when erected at least ten (10) feet behind the front property line. Any such sign shall be approved by the Building Inspector as to location in regard to health, safety, view obstruction, or other such conditions, before erection.
- (c) A sign stating the name of the owner or occupant of the property; with a maximum area on one side of two (2) square feet.
- (d) On lots of two (2) acres or larger, not more than two (2) signs, with a maximum total area of eighteen (18) square feet, advertising the sale of agricultural products raised or grown on the premises.

3.1529 Uses customarily incident to any of the above uses, including home occupations.

3.153 RESTRICTIONS.

3.1531 Lot Size. When topography, character and other considerations are favorable, and the following minimum standards are met, the minimum lot size in this district shall be:

<u>LOT AREA</u>	<u>MINIMUM STANDARDS</u>
Forty-thousand (40,000) square feet	<ol style="list-style-type: none"> 1. Approved water supply (public or private). 2. Approved individual sewage disposal system. 3. Approved public access. 4. Approved plan for future re-subdivision of total tract when urban conditions <u>develop</u>.
Twenty-thousand (20,000) square feet	<ol style="list-style-type: none"> 1. Approved public water supply. 2. Approved individual sewage disposal system. 3. Approved public access. 4. Approved plan for future re-subdivision of total tract when urban conditions <u>develop</u>.
Ten-thousand (10,000) square feet	<ol style="list-style-type: none"> 1. Approved public water supply. 2. Approved public sewer (or when conditions permit, State Code cesspool). 3. Approved public access. 4. Approved plan for the subdivision of the total tract.
	<ol style="list-style-type: none"> 5. Other established community facilities are available to serve the area and <u>similar lot sizes exist in the vicinity</u>. <p>(a) Approval of water supply and sewage disposal facilities shall be by the County Department of Public Health. Other approvals as above shall be by the Planning Commission. All such approvals shall be consistent with the purposes of this Ordinance.</p>
	<p>(b) Any further reduction in lot sizes shall require a change in district boundary. (Section 8.30). Such change may be considered on the basis of established character and community facilities in addition to the above.</p>

- (c) The minimum average lot width shall be seventy (70) feet, and the minimum lot width at the building line shall be seventy (70) feet. The minimum lot depth shall be one hundred (100) feet.

3.1532 Yard Requirements:

- (a) Front Yard. There shall be a front yard having a minimum depth of thirty (30) feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the set-backs of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the set-back shall be the set-back of the occupied lot plus one-half the remaining distance to the required thirty (30) foot setback. If neither of the abutting side lots of tracts are occupied by a structure, the set-back shall be thirty (30) feet.
- (b) Side Yard. Side yards shall be a minimum of ten (10) feet.
- (c) Rear Yard. There shall be a rear yard with a minimum depth of twenty-five (25) feet to the main building.
- (d) Lot Coverage. The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.
- (e) A wholesale or retail sales office, limited to the sale of agricultural products raised or grown on the premises, may be maintained on a lot of two (2) acres or larger, with a minimum front yard depth of sixty (60) feet and a maximum ground floor area of four hundred (400) square feet. Such maximum floor area shall include lath houses over five (5) feet in height used for display or sales.

3.1533 Accessory Buildings. Accessory buildings may be allowed if they fulfill the following requirements:

- (a) If attached to the main building or separated by a breeze way they shall fulfill the front and side yard requirements of the main building.
- (b) If detached and located behind the rear-most line of the main building, or a minimum of fifty-five (55) feet from the front lot line, whichever is greater, any one (1) story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

3.1534 Off-Street Parking. One (1) automobile space on the lot shall be provided for each dwelling unit.

- 3.1535 Height Restrictions. Maximum height of any structure shall be two and one-half (2½) stories or thirty-five (35) feet, which ever is less.
- 3.1536 All lots in this district shall abut a street, or shall have such other access held suitable by the Planning Commission.
- 3.1537 Half Streets. The minimum front or side yards or other set-backs as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.
- 3.1538 No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot yard or setback requirements of this district.
- 3.1539 These requirements shall apply to lots that abut a future street as indicated on an approved and recorded subdivision plat.
- 3.154 EXCEPTIONS.
- 3.1541 Housing Project. When a developer of four (4) or more acres of land submits plans for an entire development program, with the objective of providing suitable view, ample yard area and other conditions in harmony with the neighborhood, the Planning Commission may waive the front, side or rear yard requirements if it finds that the proposed design is in the best interest of the public and adequate to provide desirable places in which to live. In such case the lot area, width and depth requirements shall remain the same as for this residential district.
- 3.1542 Where a lot less than the minimum size required, in this section was held under separate ownership, and was on public record at the time this Ordinance became effective, such lot may be occupied by any use permitted in this district. In no case, however, shall a dwelling unit have a lot area of less than three-thousand (3,000) square feet.
- 3.1543 If topographical or other conditions exist which make these requirements unreasonable, the Board of Adjustment may waive the front, side or rear yard requirements.

AN ORDINANCE amending the Zoning Ordinance of Multnomah County, deleting and changing provisions therein, creating new provisions and repealing all prior portions and amendments in conflict herewith to the extent of such conflict.

The Board of County Commissioners of Multnomah County, Oregon

ORDAINS as follows:

This ordinance is enacted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve, stabilize, and protect property values; to encourage the most appropriate use of land; to provide adequate light, air and access; to prevent the over-crowding of land; to avoid undue concentration of population; to secure safety from fire and other dangers; to insure sanitary conditions; to lessen traffic congestion, and to facilitate adequate and economical provisions for public improvements, all in accordance with the Development Pattern of the county; and to provide a method of administration - all as authorized by the provisions of Sections 215.010 to 215.190, and Section 215.990 Oregon Revised Statutes.

Title: This ordinance shall be known and may be cited as the "Zoning Ordinance of Multnomah County, Oregon."

1.00 GENERAL DEFINITIONS. For the purposes of this ordinance, the following terms are hereby defined:

1.01 ACCESSORY BUILDING. A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.

1.02 AGRICULTURE. The tilling of the soil, the raising of crops, dairying and/or animal husbandry, but not including the keeping or raising of fowl, pigs, or fur-bearing animals unless such is clearly incidental to the principal use of the property for the raising of crops.

1.03 AIRPORT OR AIRCRAFT LANDING FIELD. Any landing area, runway or other facility designed, used or intended to be used either publicly or by any person or persons for the landing and taking-off of aircraft and including all necessary taxi-ways, aircraft storage, tie-down areas, hangars and other necessary buildings and open spaces.

1.04 ALLEY. A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

1.05 ALTERATION. An "alteration" may be a change in construction or a change of occupancy. Where the term "alteration" is applied to a change of construction, it is intended to apply to any change addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another.

1.06 ALTERATION, STRUCTURAL. Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

1.07 APARTMENT. Any building or portion thereof which is designed, built, rented, leased, let or hired out, to be occupied, or which is occupied as residence of three (3) or more families, living independently of each other and doing their own cooking in the said building.

- 1.08 BASEMENT. A portion of a building which has more than one-half ($\frac{1}{2}$) of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground; and not deemed a story unless the ceiling is six (6) feet or more above the grade.
- 1.09 BOARD OF ADJUSTMENT. A Committee of the Planning Commission, which may grant temporary permits, and variances from the requirements of this ordinance with or without conditions according to the provisions of Section (8.3) of this ordinance.
- 1.10 BOARDING, LODGING OR ROOMING HOUSE. A building or portion thereof, other than a hotel, where meals and/or lodging are provided for compensation for five (5) or more persons, not transients.
- 1.11 BUILDING. Any structure built, for the support, shelter, or enclosure of any persons, animals, chattels or property of any kind.
- 1.12 BUILDING DEPARTMENT. The Planning Department is designated as the Building Department and is therefore charged with the administration and enforcement of this ordinance.
- 1.13 BUILDING HEIGHT. The vertical distance measured from the adjoining curb level to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip, or gambrel roof, provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.
- 1.14 BUILDING LINE. A horizontal line that coincides with the front side of the main building.
- 1.15 COURT. An open unoccupied space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building.

- 1.16 DORMITORY. A room for sleeping purposes for more than four (4) persons, which is rented.
- 1.17 DWELLING UNIT. One or more rooms designed for occupancy by one (1) family for living purposes and having only one (1) cooking facility
- 1.18 DWELLING, ONE-FAMILY OR SINGLE FAMILY. A detached building designed for occupancy by one (1) family.
- 1.19 DWELLING, DUPLEX OR TWO-FAMILY. A building designed exclusively for occupancy by two (2) families living independently of each other.
- 1.20 DWELLING, APARTMENT. A building or portion thereof, designed for occupancy by three (3) or more families living independently of each other.
- 1.21 FENCE, SIGHT OBSCURING. A fence, consisting of wood, metal, or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.
- 1.22 FLOOR AREA. The maximum horizontal area of the building at the finished floor line.
- 1.23 FRONTAGE. All the property fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway and/or dead-end street, or county boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

1.24 GRADE, GROUND LEVEL. The average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk.

1.25 GRAZING. The use of land for pasture of horses, cattle, sheep, goats, and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits.

1.26 HOME OCCUPATION. Any lawful activity, not otherwise specifically provided for in this ordinance, commonly carried on within a dwelling by a member or members of a family, no employee or other person being engaged in the same, and in which said activity is secondary to the use of the dwelling for living purposes; provided, that there is no outside advertising or display of merchandise and that no sale or sales of merchandise shall be made in such dwelling or on the premises connected therewith.

1.27 HORTICULTURE. The cultivation of plants, garden crops, trees and/or nursery stocks.

1.28 HOTEL. A building or portion thereof designed or used for occupancy of individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

1.29 HOUSING PROJECT. An area of four (4) or more acres arranged according to a site plan on which the amount of land to be devoted to housing facilities, their arrangement thereon, together with the arrangement of access streets and alleys, and other public facilities is shown.

1.30 EDUCATIONAL INSTITUTION. A college or university supported by public or private funds, tuitions, contributions or endowments, giving advanced academic instruction as approved by a recognized accrediting

agency, including fraternity and sorority houses, excluding elementary and high schools, and trade and commercial schools.

1.31 JUNK YARD. The use for more than two hundred (200) square feet of the area of any lot, or the use of any portion of that half of any lot, but not exceeding a depth or width, as the case may be, of one hundred (100) feet, which half adjoins any street, for the dismantling or "wrecking" of automobiles or other vehicles or machinery, or for the storage or keeping of the parts or equipment resulting from such dismantling or "wrecking," or for the storage or keeping of junk, including scrap metals or other scrap material.

1.32 KENNEL. Any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept.

1.33 LOADING SPACE. An off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

1.34 LOT. A plot, parcel or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

1.35 LOT COVERAGE. The area of a lot covered by a building or buildings, expressed as a percentage of the total lot area.

1.36 LOT LINES. The lines bounding a lot as defined herein.

1.37 LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the narrowest frontage of the lot from the street.

1.38 LOT LINE, REAR. The line dividing one lot from another and on the opposite side of the lot from the front lot line, and in the case of an irregular or triangular shaped lot, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line.

1.39 LOT LINE, SIDE. In the case of an interior lot, a line separating one lot from the abutting lot or lots fronting on the same street; and in the case of a corner lot, a line separating the greatest frontage of the lot from the street.

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

1.41 LOT WIDTH, AVERAGE. The average horizontal distance between the side lot lines.

1.42 LOT AREA. The total horizontal area within the lot lines of a lot.

1.43 MOTEL. See Tourist court.

1.44 NON-CONFORMING USE. A use to which a building or land was put at the time this ordinance became effective and which does not conform with the use regulations of the district in which it is located

1.45 PARKING SPACE. A minimum gross area, ten (10) feet in width and twenty (20) feet in length, available for the parking of a standard American automobile.

1.46 PREMISES. A lot with or without buildings.

1.47 PROFESSIONAL OFFICE. An office containing the activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist or teacher, but not real estate or insurance sales.

- 1.48 ROOMING HOUSE. Same as boarding house.
- 1.49 SCHOOL, COMMERCIAL. A building or land where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.
- 1.50 SCHOOL, PRIMARY, ELEMENTARY OR HIGH, including Private or Parochial, but not including nursery school, kindergarten or day nursery, except those operated in conjunction with a school.
- 1.51 SHALL is mandatory, MAY is permissive.
- 1.52 SIGN AREA. The greatest width multiplied by the greatest height of the display portion of a sign.
- 1.53 STORY. That portion of a building included between a floor and the ceiling next above it, exclusive of a basement.
- 1.54 STORY, HALF. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.
- 1.55 STREET. A public way which provides vehicular and pedestrian access to adjacent properties. It shall include the terms street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place and other such terms.
- 1.56 STRUCTURE. Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.
- 1.57 TIMBER GROWING. The growing of trees for the production of timber.
- 1.58 TOURIST COURT. One or more buildings designed or used as temporary living quarters for automobile transients.
- 1.59 TRAILER. Any vehicle or similar portable device, having no foundation other than wheels, jacks or skirtings and so designed or con-

structed as to permit human occupancy for living or sleeping purposes.

1.60 TRAILER PARK. Land designed or used for the temporary or permanent parking of two (2) or more vehicles used for human habitation.

1.61 TRANSITIONAL AREA. An area consisting of a lot, lots, or parts of lots, within any residential district, having side lot lines abutting a boundary of a commercial or industrial district, and extending not more than one hundred (100) feet from such boundary into the residential district.

1.62 TRANSITIONAL USES. A use allowed in a transitional area which is intended to create a gradual change in uses from industrial and commercial areas to residential areas.

1.63 YARD. An open space, on a lot with a building and bounded on one (1) or more sides by such building, such space being unoccupied and unobstructed from thirty (30) inches above the ground upward.

1.64 YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

1.65 YARD, REAR. A yard extending across the full width of the lot between the most rear building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the building. Where there is no rear lot line, the depth of the rear yard shall be the distance from a ten (10) foot line parallel to the front lot line, measured from one side line to the other.

1.66 YARD, SIDE. A yard between any building and the side lot line, extending from the front yard, or front lot line where no front yard is required; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the building.

SZM44

SEE MAPS IN GRID,
830, 853, & 882 FOR
SEC. STREAMS INFO

SZM46

SEE MAPS IN GRID,
830, 853, & 882 FOR
SEC. STREAMS INFO

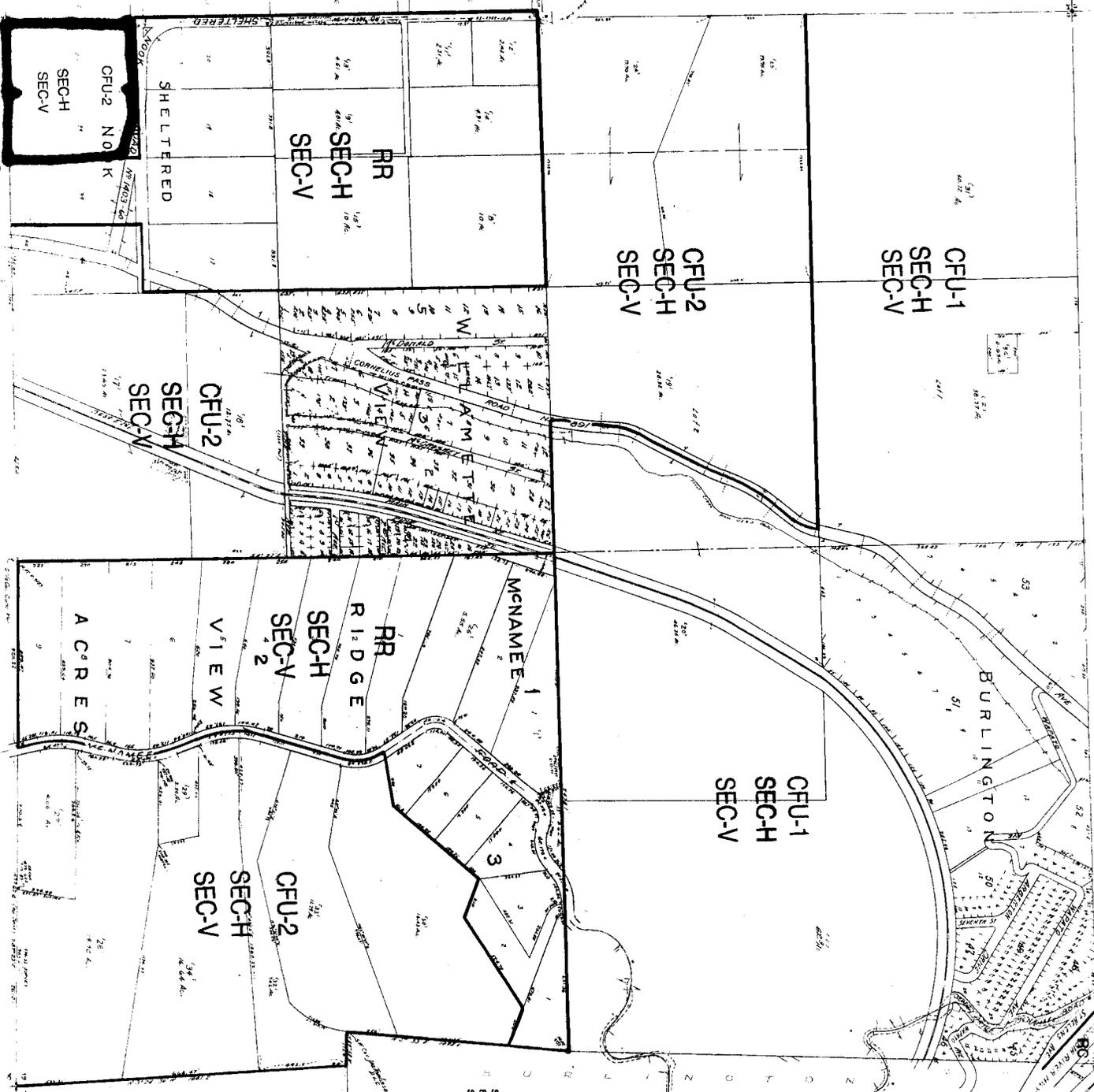
SZM45

SEE MAPS IN GRID,
830, 853, & 882 FOR
SEC. STREAMS INFO

SZM47

SEE MAPS IN GRID,
830, 853, & 882 FOR
SEC. STREAMS INFO

LOT 37 & 38



19
21NW

10
21NW

20
21NW

B-3

19-21NW

SZM34

SEE MAPS IN ORD.
830, 853, & 882 FOR
SEC-STREAMS INFO

SZM42

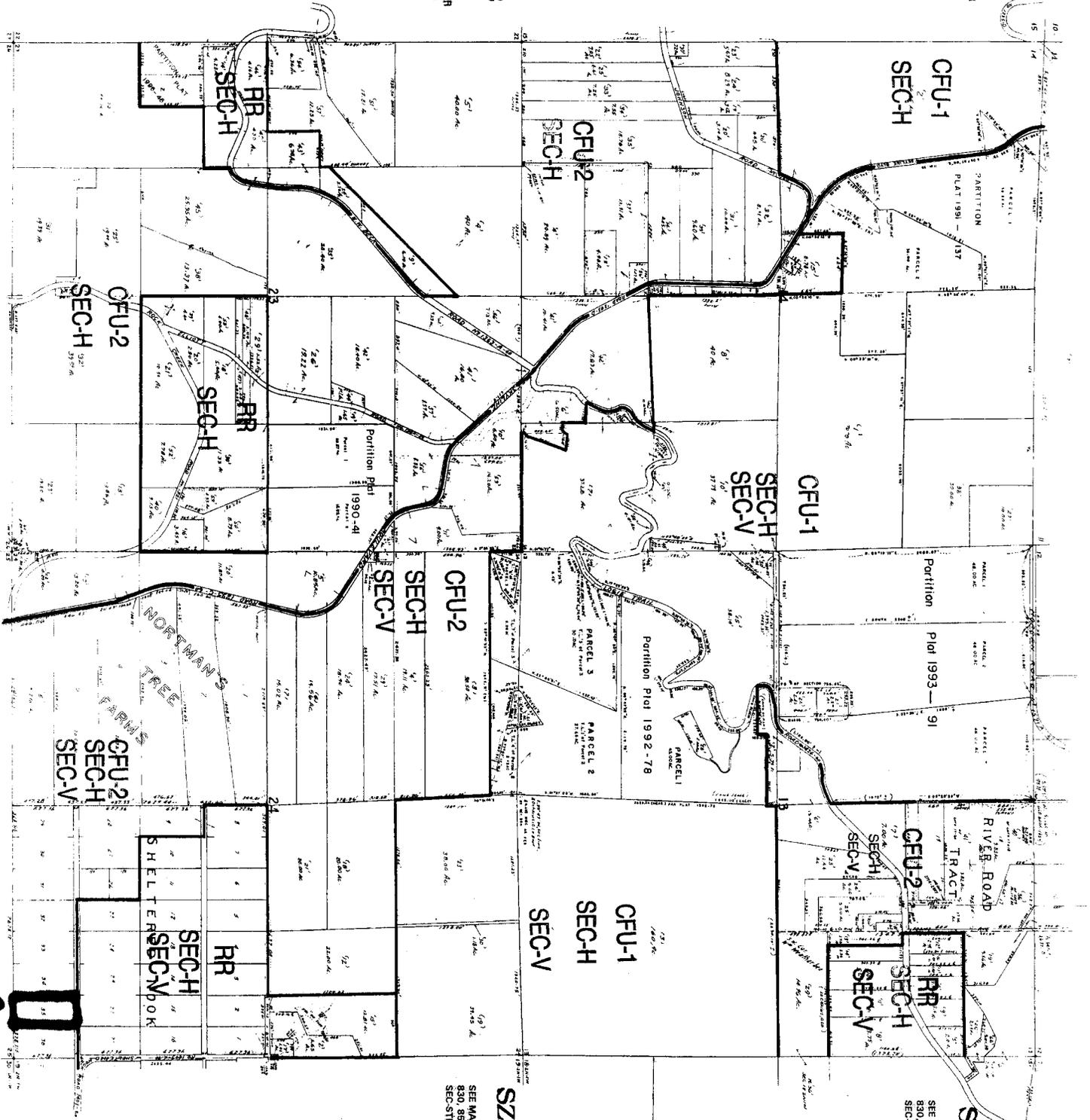
SEE MAPS IN ORD.
830, 853, & 882 FOR
SEC-STREAMS INFO

SZM35

SEE MAPS IN ORD.
830, 853, & 882 FOR
SEC-STREAMS INFO

SZM43

SEE MAPS IN ORD.
830, 853, & 882 FOR
SEC-STREAMS INFO



LOT 35 ↘

1314.2324-2N2W



2004 Aerial Photo

Tax Lots



0 89 178 267 356 Feet

1" = 356 feet



1600 SE 190th Ave.
Portland, OR 97223
503.246.3043 Fax: 503.248.3389
Email: land.use.planning@co.multnomah.or.us

This map is based on data from Metro
Multnomah County cannot accept responsibility
for errors, omissions or positional accuracy.
There are no warranties expressed or implied.



Department of Community Services

MULTNOMAH COUNTY OREGON

Land Use and Transportation Program

1600 SE 190th Avenue
Portland, Oregon 97233-5910
(503) 988-5050

01.03.24 11:08:17

MULTNOMAH COUNTY
PLANNING DEPARTMENT

MEMORANDUM

TO: Adam Barber, Ed Abrahamson, Alison Winter, Pat Hinds and Alan Young
FROM: Kate Dreyfus, Transportation Planning Specialist *KAD*
DATE: August 22, 2005
SUBJECT: T1-05-042; 2N 2W 24D Tax Lot 2300; EP 2005102

The Transportation Division has reviewed the applicant's proposal to waive regulations prohibiting construction of a single-family dwelling on each lot. The subject property is adjacent to Sheltered Nook Road, which is a County road with a Local Access Road functional classification.

No conditions of approval are required at this time. However, on-site and/or off-site improvements and permits for access or construction within the County right of way may be required prior to the issuance of a building permit for any new residences on the site.

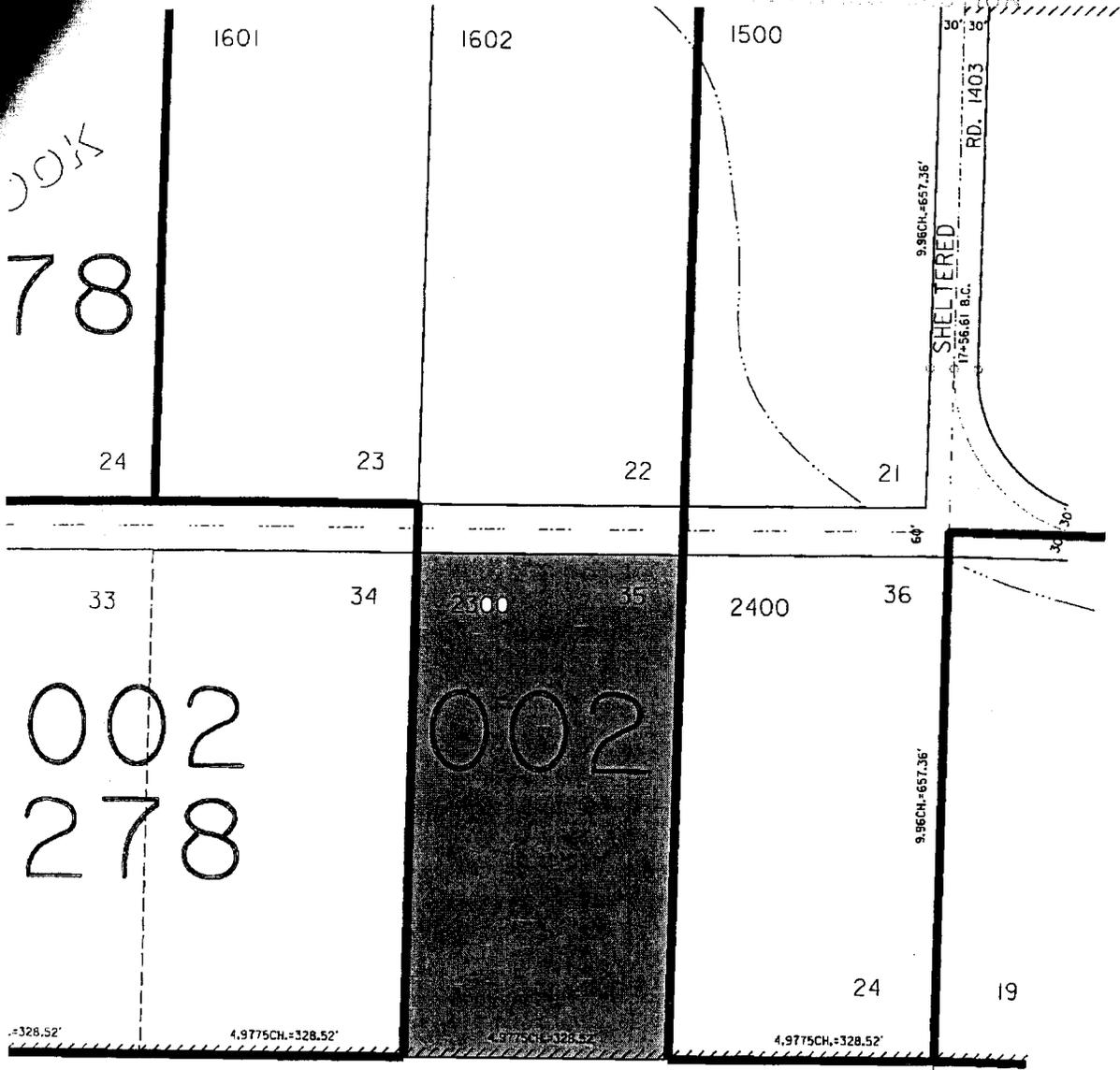
Also, any drainage discharge into the County right of way must be approved by a Multnomah County permit. Please contact Greg Kirby at (503) 988-5050 x29623 for further information concerning drainage discharge.

KDMP1129.MEM (TRANPCPD520)

B-5

05 AUG 24 AM 8:17

PROPERTY
SECTION



JO'S
78

002
278

002

SEE CS 52737

NOTE:

- RFPD WITHIN NORTHWEST
FIRE PATROL 509
- T.F.V. & R. =
TUALATIN VALLEY FIRE & RESCUE
- S.F.P. = SCAPPOOSE FIRE PATROL

2W 25



MULTNOMAH COUNTY OREGON

Real Property Appraisal Section
501 SE Hawthorne Blvd, Suite 200
Portland, Oregon 97214
(503) 988-3367 phone
(503) 988-3356 fax

503 988 3367
PROPERTY
DIVISION

October 14, 2005

Owner: Dilnik, Albert & Deane

Assessor's #: R269574, R269576

Size: 4.74Ac, 9.61Ac

Zone: CFU-2, sec

Topography: Gentle to moderate sloping

I have reviewed the appraisal prepared by Barry Wilson as well as the letter submitted by Kimberly Marcellus, realtor, on behalf of Albert & Deane Dilnik. The appraisal is for the entire ownership of Assessor's accounts R269574, R269575 and R269576. The land totals 20.10 acres and is valued as 1 building site per current zoning regulations. The estimated land value is stated to be \$260,000 which does not include on site improvements. R269575 is improved with a low quality house built in 1933. The estimated value of \$160,000 per lot offered by the realtor addresses only the 3 vacant pre-platted lots with the assumption that each lot has access and are buildable.

I was unable to locate any recent sales of small buildable parcels zoned CFU. I did however find 4 sales of vacant parcels zoned either RF or RR in NW Multnomah County. All sales had road access to the site, City water and no sewers. They ranged in size from 2.00 acres to 4.79 acres. Sales prices ranged from \$240,000 to \$480,000. Adjusted sales prices ranged from \$187,000 to \$362,000. Parcels zoned CFU of approximately 20 acres in size are selling for \$172,000 to \$216,000.

I would estimate the value of the 5 acre parcels if buildable to be \$200,000 each. As developed as one 20 acre parcel to be \$245,000.

Respectfully,

Bob Alcantara
Senior Appraisal Supervisor

SAP#4745

B-6

