



**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

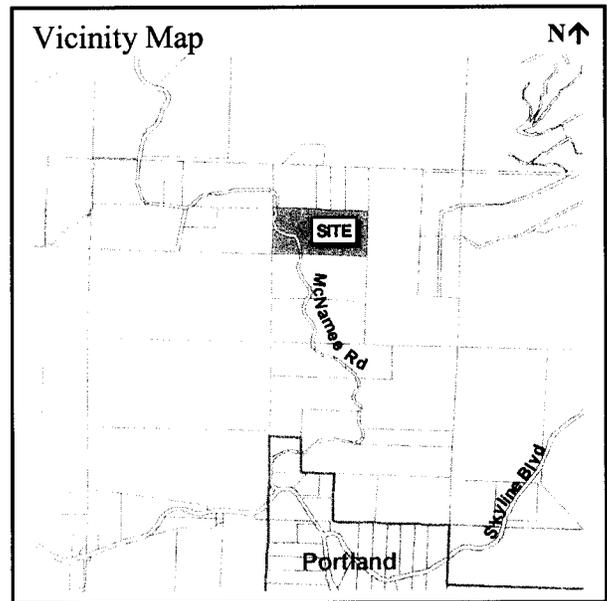
Hearing Date, Time, & Place:

Thursday, March 17, 2005, at 1:30 PM or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

Case File: T1-04-044

Claimant: Dorothy English, Christie Verhoef, & Douglas Sellars

Location: 13100 NW McNamee Road
TL 1200, Sec 32A, T2N, R1W, W.M.
Tax Account #R971320170



Claim: Demand for compensation in the amount of \$1,150,000 or right to create 8 separate parcels out of the existing parcel and build homes on each parcel.

Zoning: Commercial Forest Use (CFU-2) with Protected Aggregate and Mineral, Significant Environmental Concern for views and habitat, and Hillside Development overlays.

Site Size: 19.74 acres

Approach to Deciding the Claim:

Dividing land is not a *use* of land for purposes of applying the measure, so that part of the claim must be denied. As for construction of one or more additional dwellings on the property, Christie Verhoef and Douglas Sellars acquired an interest in the land in 1999 at a time when land use regulations prohibited more than one dwelling, so they have no basis for a claim. Mrs. English; however, has established that land use regulations enacted after she purchased the property have prevented her from building additional homes. The claimant's appraisal is adequate to show that these regulations have reduced the property's value, meaning that the Board must either:

- a. Pay compensation equal to the reduction in fair market value of the property attributed to the regulations; or.
- b. Not apply land use regulations to allow Mrs. English to construct one or more additional dwellings on the property. The specific regulations are listed in Category 1, of Addendum A to this report.

The claimant's appraisal, by its own terms, is inadequate as evidence of value, so additional appraisal work would be needed if compensation is the desired course of action.

Staff Analysis

(The following is a step-by-step evaluation of the claim, which consists of the letter and limited appraisal submitted by Joe Willis, attorney, on behalf of the claimants. It 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 24, 2005 memo authored by the State Attorney General's Office.)

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

Yes. The claimant's letter and appraisal constitute a "written demand for compensation" within the meaning of the measure.

On December 2, 2004, Joe Willis, attorney, on behalf of claimants, Dorothy English, Christie Verhoef, and Douglas Sellers, submitted a letter seeking \$1,150,000 in compensation or the right to divide their property at 13100 NW McNamee Road into 8 parcels and construct 8 homes. An appraisal was submitted, on February 9, 2005, to substantiate the amount of compensation being sought. Copies of the claim letter and appraisal are attached (Exhibits A1 & A2).

Mr. Willis's letter was faxed to the County Attorney's Office at 12:11 am, before the Multnomah County Board of Commissioner's considered an ordinance to implement Ballot Measure 37, which was adopted later that morning. Mr. Willis also hand delivered the original letter to the County Attorney's Office on December 2, 2004, at 8:15 a.m. Since the ordinance was not in effect when the claim was received, the County is not using it to evaluate this claim. Instead, the County is applying the measure directly (Exhibit B1).

The measure requires an owner submit a written demand for compensation, but does not specify what that entails. Absent the implementing ordinance which defines what is needed for a claim, the demand must, at a minimum, describe the use being sought, identify regulations that prohibit the use, and substantiate that land use regulations have reduced the value of the property. The claimant's letter and appraisal contains this information.

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

Yes, at least in terms of claimant Mrs. English who acquired the property in 1953, prior to the County adopting the ordinances challenged in the claim.

Ballot Measure 37 exempts land use regulations enacted prior to the date the current owner acquired the property. Deed records show that claimants Christie Verhoef and Douglas Sellers acquired an interest in the property in 1999 (Instrument #99-01244). Land use regulations in effect at that time were substantially the same as they are now, providing for one single family dwelling per lawful parcel (§11.WH.2046, Ord. #916). Current assessment records show that the property is improved, with a residence built in 1948 (Exhibit B2). As there is already a dwelling on the property, no additional dwellings would have been permitted under land use regulations in effect on the date Christie Verhoef and Douglas Sellers acquired an ownership interest. Accordingly, neither has a basis for a claim.

Mr. Willis has provided evidence that Mrs. English first acquired the property with her husband in November, 1953 pursuant to a land sales contract (Book 1630, page 591).¹ In May of 1953 the County

¹ The property at that time was 38.98 acres in size and is identified on older maps as Tax Lot 17. The current property, Tax Lot 1200, is the south half of the original piece, created when Mr. and Mrs. English sold 10.76 acres and 8.87 acres in 1974 and October 18, 1977, respectively.

adopted its first interim zoning ordinance, a code that was primarily directed at nuisance uses and would not have prohibited more than one dwelling from being established on a parcel or lot (Exhibit B3). Therefore, Mrs. English became the owner of her property prior to the County enacting land use regulations restricting the number of dwellings to one per property.

3. *Have the County codes challenged in this claim restricted the use of the property?*

Yes. The zoning restricts the use of the property, limiting Mrs. English to one dwelling. The County Attorney's office has advised that dividing land is not a *use* of land under Measure 37. Since a land division is not a *use* of land, codes regulating how or when property can be subdivided or partitioned are beyond the scope of the measure.

County maps show that the property is zoned Commercial Forest Use (CFU-2), with Protected Aggregate and Mineral, Significant Environmental Concern for views and streams, and Hillside Development overlays (Exhibits B4 & B5), and each is challenged in Mr. Willis's letter. These zoning rules implement both local and statewide planning policies, and either limit what the property can be used for or influence the manner in which development occurs, both of which can restrict the use of property.

The Commercial Forest Use (CFU-2) and Protected Aggregate and Mineral regulations restrict the use of land by prohibiting the construction of more dwellings on the property. The CFU-2 rules do so by prohibiting residential development that conflicts with the purpose of the district, which is to conserve and protect lands for continued commercial growing and harvesting of timber and related forest uses, consistent with Statewide Planning Goal 4 (ref: §33.2200). New dwellings are only allowed in a limited range of circumstances, such as when they are need to manage large timber holdings, are being located in an area where there is already a substantial number of dwellings, or are to occur on property that has been owned by the current owner for an extended period of time. All of these provisions are for one dwelling per parcel. Similarly, the Protected Aggregate and Mineral Overlay limits construction of dwellings because they are noise sensitive uses that are inappropriate in close proximity to aggregate sites, which are protected by this district pursuant to Statewide Planning Goal 5 (ref: §33.5700). The aggregate overlay covers all of Mrs. English's property because of its proximity to the Angel Brothers Quarry, which is approximately 630 ft to the north. If the Board determines to not apply certain regulations to allow Mrs. English to construct 8 houses it will be necessary to not apply the regulations listed in Category 1 in Addendum A.

Other regulations do not prohibit uses, rather they influence how development occurs on property to meet policy objectives, the specifics of which are briefly explored in the addendum to this report. The claim letter and appraisal focus on what Mrs. English wants to build, not how she intends to do it. While it is possible that these rules can restrict the use of property, it is impossible to know the degree to which they will do so without knowing how the claimant will develop the property. The same can be said for the transportation codes challenged in the letter. For these reasons, it is recommended that these regulations (described in Category 2 in Addendum A) not be addressed at this time until further information is provided about the development.

Regulations that concern public health and safety are not subject to Measure 37. It is recommended that the request to not apply the regulations listed in Category 3 (Hillside Development and Erosion Control Standards) be denied.

Finally some regulations cited in the claim letter have no bearing on development of the English property. It is recommended that these regulations (described in Category 4 in Addendum A) not be addressed at this time subject to the claimant providing information to show that they do, in fact, apply.

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

Yes, insofar as they prohibit Mrs. English from constructing one or more additional homes on her property. Since no information has been provided as to how Mrs. English intends to develop the property or what their concerns are with the challenged regulations, it is impossible to discern if regulations that influence the manner in which development occurs actually reduce the property's value. The same applies to transportation regulations that require certain public/private improvements depending upon the nature of the development.

In his letter, Mr. Willis lists more than 60 sections of the County code that, in his opinion, restrict the use of the property and reduce its value. No explanation is given as to why he believes this to be the case and he acknowledges that it is unclear as to whether every provision cited would even apply to Mrs. English's ability to develop her property. The appraisal, which is the other piece of evidence submitted in support of this claim, is by its own terms inadequate for valuation purposes and limited to the question of what the property might be worth as one home site (\$600,000), versus an 8 lot subdivision with 8 homes (\$1,750,000), assuming restrictions are lifted on Mrs. English's property but remain in effect on all other similarly zoned properties. There is no discussion regarding the feasibility of development (e.g. septic suitability, roads, etc.), nor has any information been provided regarding how Mrs. English intends to develop the property other than that they want to incrementally divide the land (two lots at a time) over several years and are prepared to build homes on the parcels, and associated non-public infrastructure prior to the parcels being sold or transferred. Consideration of these factors will influence the value. The appraisal indicates that comparable sales data was considered, presumably of parcels and homes similar to what they want to develop, however, none of the comparables were provided.

Given this limited amount of information, regulations that definitively prohibit the construction of 8 homes, are the only rules that we know have reduced the property values. Regulations that influence the manner in which development occurs (e.g. size, height and location of dwellings, configuration of lots, vehicle access, etc.) cannot be waived or modified at this time because there is no evidence on which to base such a decision. In fact, it could be that they enhance the value of the property or are at least value neutral (e.g. safer more durable roads, homes that blend in with the landscape and other development in the area, more desirable lot configurations, etc.). Without an idea as to how they actually want to develop the property or an explanation of what their concerns are with these regulations, there is no way to know for sure. Some of the challenged regulations are exempt from claims under the measure or are unrelated to the development a hand. An Addendum to this report lists each of the challenged regulations and identifies where they fit within these various scenarios. It is organized into four (4) categories, with Category 1 being those land use regulations that would need to be set aside (i.e. "not applied") to allow the development of additional dwellings; Category 2 being those that are premature to set aside because the claim lacks sufficient information to show that they have reduced the fair market value of the property; Category 3 being those that are exempt under the measure; and Category 4 being those that have no relationship to the development being sought.² A brief description of the each regulation is also included to provide perspective as to why they are appropriate to the particular category.

² County Comprehensive Framework Plan, West Hills Rural Area Plan, and other policy documents challenged in Mr. Willis's letter are implemented by the zoning and transportation codes, many of which are also challenged. To the extent it is necessary to waive these codes the corresponding plan policies that necessitated the codes would also have to be waived. As such, it is not necessary to independently evaluate the plan policies.

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

Yes. The plain language of the Commercial Forest Use (CFU-2) and Protected Aggregate and Mineral zoning prohibit additional permanent dwellings.

Land use regulations enacted prior to the date the owner acquires the property must be enforced for the measure to be operative. The Commercial Forest Use (CFU-2) and Protected Aggregate and Mineral zoning rules effectively prohibit additional permanent dwellings, reducing the value of the property. There is no application that they can apply for that could lead to the approval of additional homes, so on their face these regulations have been enforced.

Conclusion

Considering the above, Mrs. English has established that land use regulations enacted after she purchased the property in 1953 have prevented her from building additional homes. To allow Mrs. English to construct additional homes the Board would need to grant the request to not apply the regulations in Category 1, Addendum A.

Claimant's request to not apply the regulations in Category 2 of Addendum A should be denied because the request is premature.

Claimant's request to not apply the regulations in Category 3 of Addendum A should be denied because the regulations concern public health and safety.

Claimant's request to not apply the regulations in Category 4 of Addendum A should be denied because the regulations have no bearing on development of the property.

If the Board of Commissioner's chooses to not apply the regulations listed, Land Use Planning would recommend that the Board of Commissioners address the following in the Board Order:

1. Include a statement that any waiver or modification of the county land use regulations does not constitute a waiver or modification of corresponding state laws, or administrative rules.
2. Action by the Board of Commissioner to not apply regulations does not authorize immediate construction of the dwellings. Rules that still apply require that land use and building permits be approved by the County before development can proceed.

Issued by:

By: 
Derrick Tokos, Principal Planner

For: Karen Schilling- Planning Director

Date: Wednesday, March 9, 2005

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. Letter from Joe Willis, attorney, dated December 2, 2004
- A2. Appraisal prepared by Robert Gill and Associates, submitted February 9, 2005

Staff Exhibits

- B1. Text of Ballot Measure 37
- B2. Assessment & Taxation Records
- B3. 1953 Interim Ordinance
- B4. Current Zoning Map w/o Hillside Development Overlay
- B5. Map showing the Hillside Development Overlay

Category #1: Regulations that would not be applied to allow up to eight dwellings to be established on the property.

- §33.2215, Uses. Requires that any building, structure, or land be used in compliance with the Commercial Forest Use rules, which prohibit the creation of small lots and limit new dwellings because of the inherent conflict between residential and commercial timber uses.
- §33.2220, Allowed Uses. Lists the uses allowed without County review in the Commercial Forest Use zone, pursuant to the Forest Practices Act and Statewide Planning Goal 4. Developing more than one permanent dwelling on a parcel is not listed as allowed.
- §33.2225, Review Uses. Although not listed in the claim letter, this category of uses in the Commercial Forest Zone would also need to be set aside, as it lists those activities that are allowed subject to administrative review by the County and the subdivision or development proposed is not listed as allowed.
- §33.2230, Conditional Uses. Lists the uses allowed when approved through a hearings process and found to meet specific approval criteria. The development rights being sought are not listed in this section, and like other sections of the Commercial Forest Use code that list uses that are allowed, this one should not be applied to avoid any confusion as to whether or not Mrs. English can proceed to develop the property.
- §33.2235, Large Acreage Dwelling. This is a conditional use process for qualifying one dwelling on a large forested property. The argument for not applying this is the same as that for §33.2230.
- §33.2240, Template and Heritage Tract Dwellings. This is a conditional use process for qualifying one dwelling where the undeveloped property is in an area where there are already several dwellings or the property has been held in the same ownership for a long period of time. It would be §33.2230. The argument for not applying this is the same as that for §33.2230.
- §33.2245, Use Compatibility Standards. These rules require that development not force changes in, or significantly increase the costs of accepted forestry or farming practices on surrounding properties nor increase fire hazards or fire suppression costs on those properties. Dividing the property into 8 lots or developing 8 homes necessarily conflicts with adjoining farm and forest operations (that is why it is not allowed), thus this section of the code would have to be set aside.
- §33.5700 et. seq., Protected Aggregate and Mineral Sites. These rules prohibit or severely limit new noise sensitive uses, such as dwellings, in close proximity to aggregate sites. The aggregate overlay covers all of Ms. English's property because of its proximity to the Angel Brothers Quarry, which is approximately 630 ft to the north.

Category #2: Regulations that would be premature to waive given the available evidence.

This includes regulations that influence the manner in which development can occur or that require certain improvements, public or private, depending upon the nature of the development.

- §33.2255, Single Family Dwelling Condition of Approval, Prohibition on Claims Alleging Injury From Farm or Forest Practices. This standard requires that deed restrictions be recorded putting owners on notice that they are prohibited from taking legal action against *adjacent* property owners who are farming or conducting timber harvest or other forest management activities on their properties.
- §33.2260, Dimensional Requirements. The 80 acre minimum lot size requirement would not be an issue for development of additional homes on the parcel. The 130' setbacks might be a problem for a large number dwellings considering that the property is approximately 640 feet wide; however, we cannot say for certain considering that we do not know how they intend to develop the property. Building heights are limited to 35' in height. It is unclear as to whether or not this will be an issue, since we do not know the type of homes that they want to build.
- §33.2285 and §33.4100 et. seq., Off-Street Parking and Loading. These standards require that sufficient area be provided on each lot for off-street parking (typically two spaces per dwelling).
- §33.2290, Access. Requires that the lots or parcels possess street frontage or other access that is safe and convenient. Might qualify as a health and safety requirement, exempt from the measure.
- §33.2305, Development Standards for Dwellings and Structures. Includes road grade, clearance and improvement standards to ensure that emergency equipment can access property and includes requirements for fire breaks and other similar measures to limit fire hazards in forested areas. Parts of these codes might qualify as health and safety requirements.
- §33.2310, Exception to Secondary Fire Safety Zones and Forest Practice Setbacks. Alternative to fire break requirement, relying instead on certain fire resistant building materials, sprinkler systems, alarms, etc. Might also qualify as a health and safety requirement, exempt from the measure.
- §33.4500 et. seq., Significant Environmental Concern. These standards are designed to ensure that significant natural features are protected during development, consistent with Statewide Planning Goal 5. They require development be clustered and located close to roads to provide for wildlife movement throughout the greater forest park area. Alternative protection standards are available if these standards cannot be achieved. These rules also require development to ensure that views of the ridge as seen from certain vantage points on Sauvie Island, the Multnomah Channel, and Highway 30 are as natural as possible. This influences dwelling location, height, color, etc. None of these standards prohibit the development of homes or the creation of lots.
- §4.000 et. seq., Access to County Roads. Regulates access onto County roads, primarily to ensure that it is safe. Will not, on its face, prevent the creation of 8 lots or 8 homes.
- §5.000 et. seq., Transportation Impact. Sets thresholds as to what constitutes a traffic impact that might warrant a traffic study. Does not, in itself, dictate whether or not 8 lots or 8 homes can be built.
- §6.000, Improvement Requirements. Could require certain public improvements depending upon the nature of the development that is proposed (e.g. culverts, paved approach, etc.). Might qualify as health and safety requirement.
- §7.000, Transportation Impact Studies. Includes requirements for studies. The need for a study is dependant upon the nature of the development that is proposed.

- §8.000, Off-Site Improvements. Would be limited to improvements along McNamee Road. Unlikely that they would be sought unless necessary for health and safety purposes and impossible to identify without having some ideas as to how the property is to be developed.
- §9.000, Compliance Method. Relates to how infrastructure improvements are guaranteed (e.g. developer constructs them, they pay the County to build, non-remonstrance, etc.). Dependant upon development that is proposed.
- §16.000 et. seq., Variances from County Standards and Requirements. Contains rules for obtaining a variance to road rules. Impossible to know if any are needed without some idea as to how the property would be divided and developed.
- §29.506, Permits Required. Regulates work within the right-of-way. Whether or not improvements are needed within the road right-of-way depends upon the development that is proposed.
- §29.508, Acceptance of Deeds and Easements for Road Purposes. Regulates how these legal instruments must be structured. Impossible to know if dedications are needed without an idea as to how they intend to develop the property.
- §29.560, Street Standards, Rules and Guidelines. Explains that street standards implement established rules and policies and that access requirements are based upon the functional classification of a road. Largely a policy statement that may not be directly applicable to a subdivision or development. If directly applicable, impossible to say how it would impact this claim because no information has been provided as to how they intend to develop the property.
- §29.571, Right-of-Way and Improvement Standards. Requires road frontage within public rights-of-way to be improved where it is presently substandard and adjoining private development is adding a significant amount of traffic to the road segment. Might not be an issue with this section of McNamee Road.
- §29.572, Rules for Streets, Roads and Rights-of Way. Contains requirements for construction of public streets and roads, and the dedication of right-of-way for road purposes. It is unclear whether or not this will be an issue, since we do not know how they intend to develop the property.
- §29.573, Rules for Drainage Facilities. Includes standards for managing drainage across properties. It is unclear as to the extent to which these standards apply since we do not know how they intend to develop the property.
- §29.574, Rules for Traffic Control and Traffic Control Devices. Includes standards for stop signs and signalization. If it is at all applicable, its provisions are likely health and safety related and therefore exempt.
- §29.577, Utility Locations. Regulates how utilities are installed within the public right-of-way. Standards are typically applied to utility providers, not developers, so it is possible that they might not even apply.
- §29.578, Rules for Right-of-Way Use. Regulates location and number of accesses onto public roads. Might be exempt as necessary for health and safety, considering the curvature and grade of McNamee Road. The extent to which these standards apply though is unknown.

- §29.582, Rules for Accessways. Contains standards for the size and configuration of certain private roads. Impossible to know how these standards relate to this claim, since no information has been provided as to how the property is to be developed and access provided.
- §12.000 et. seq., Public Roads. Standards are generally tailored to ensure that roads are safe and passable for emergency vehicles. Impossible to know how these standards relate to this claim, since no information has been provided as to how the property is to be developed.
- §18.000 et. seq., Right-of-way Permits. Includes rules regulating how and where approaches onto a County Road are constructed. Largely health and safety related. Since no information has been provided as to where new approaches would be constructed onto the property, it is impossible to know how these standards relate to this claim.

Category #3: Regulations exempt from Measure 37 claims.

Regulations that fall under this category include those that are listed under subsection (3) of the Measure, which includes those necessary to protect public health and safety, such as fire and building codes, health and sanitation, solid or hazardous waste regulations, pollution control regulations. Rules that are necessary to comply with federal law or that were enacted prior to acquisition date of the owner are also exempt.

- §33.5500 et. seq., Hillside Development and Erosion Control. This is a health and safety regulation, the purpose of which is to protect the public and minimize property losses due to earth movement in known hazard areas, consistent with Statewide Planning Goal 7. It applies to steeply sloped terrain or areas that have been mapped as susceptible to landslides, debris flows, etc.
- §29.350 West of Sandy River Grading and Erosion Control Code. This code citation is an error as it is applicable to the West of Sandy area. The Grading code applicable to this area is §29.330. Grading and erosion control rules have no bearing on whether or not 8 homes can be built or 8 lots created. They are structured to ensure that soil erosion attributed to development is minimized and storm run-off attributed to development is properly managed. These standards are necessary for health and safety and implement federal law, such as the Clean Water Act.

Category #4: Regulations that have no bearing on this claim.

- §33.2265, Lot of Exception. These rules allow the creation of small lots in certain circumstances, such as if there are 2 dwellings on a lot as of a certain date, assuming all other rules apply. They would have no bearing on Mrs. English's ability to divide or develop the property through waiver of other provisions of the Commercial Forest Use code.
- §33.2270, Lot Line Adjustment. The requirement is relevant to when a land owner wants to move a line common to two lots or parcels.
- §33.2275, Lot of Record. These provisions explain what a legal, developable property is within the Commercial Forest Zone. Given deed information, Mrs.
- §33.2280, Lot Sizes for Conditional Uses. This claim is not seeking to establish a use that is conditionally allowed in the Commercial Forest zone, so this provision is irrelevant to the request.

- §33.4300 et. seq., Planned Development. These standards allow the creation of lots smaller than would otherwise be allowed if remaining land is, for example, preserved as a common area for the residents. Its applicability is largely limited to urban areas.
- §33.7000 et. seq., Design Review. Not applicable to single family development.
- §33.7200 et. seq., Nonconforming Uses. Applies to the alteration or replacement of an existing non-conforming use. To our knowledge this claim does not involve any existing non-conforming uses; therefore, these provisions are not applicable.
- §33.7400 et. seq., Signs. This claim is not seeking to place signs on the property so these provisions are not applicable.
- §10.000 et. seq., Road. Corridor Specific Cross-Section Overlay. Applies to unique roadways such as freight corridors, Boulevards, etc. Is not applicable to McNamee Road.
- §11.000 et. seq., Local Access Roads. Establishes minimum standards for roads that are not maintained by the public but are located within publicly dedicated rights-of-way. No such rights-of-ways presently exist on, or in close proximity to the site.
- §13.000 et. seq., Temporary Road Closures. Requirements for when and how temporary road closures are to occur. Not applicable to a request to subdivide and develop property.
- §15.000 et. seq., Truck and Transit Restrictions. Restricts movement of large trucks and transit vehicles on certain roadways. Since the development sought does not generate either, it is not applicable.
- §17.000 et. seq., Appeals. Process for challenging how the County applies road standards. County processes, in themselves, are not land use regulations that are subject to Measure 37 claims.
- §22.000 et. seq., Property Owner Maintenance Requirements. Applies to maintenance of sidewalks and curbs within the right-of-way.
- §29.500, Street Standards. Title of the chapter. This section is not directly applicable to land divisions or development.
- §29.530, Street Standards, Adoption of Rules. Contains language explaining how the street standards can be amended. The provisions are procedural and outside the scope of the measure.
- §29.562, Local Street Category. Defines what constitutes a local street and is, in itself, not a standard that would be directly applicable to the subdivision of the property or the construction of homes.
- §29.563, Land Use Category. Rules are crafted for urban areas where site specific zoning is at odds with the classification of the roadway. Is not applicable to rural areas.
- §29.565, Scenic Route Category. Applies to scenic routes such Skyline Boulevard. Not applicable to McNamee Road.

- §29.575, Rules for Pedestrian Paths and Bikeways. Rules for when new paths and bikeways are required. Not applicable to rural local roadways, such as McNamee Road.
- §29.576, Rules for Sanitary Sewer. Contains standards for constructing sewer infrastructure within public roadways. State law prohibits new sewer systems outside Urban Growth Boundaries; therefore, this section of the code is not applicable. Any new lots or parcels would need to be served by on-site septic systems.
- §29.579, Rules for Street Lighting. Street lighting is required with urban subdivisions where districts exist or are formed to pay for on-going maintenance and utility costs. These provisions are not applicable to rural areas.
- §29.580, Rules for Street Trees. Street trees are required in conjunction with urban subdivisions and are not applicable to this request.
- §29.581, Rules for Development Support and Financing. Rules relate to the formation of local improvement districts and cost sharing of improvements by the County. None of these standards appear to be directly applicable to this claim.
- §29.620, West of Sandy River Flood Hazard Regulations. This code citation is an error as it is applicable to the West of Sandy area. The Flood Hazard code applicable to this area is §29.600. The property is not within a mapped Flood Hazard Area so these standards are not applicable.
- §33.7000, Land Divisions. The code section listed appears to be an error. Land division rules are listed under §33.7700 et. seq. and contain standards that must be followed to create new conveyable properties in accordance ORS 92. They are only relevant to the partitioning or subdivision of property and are; therefore, outside the scope of the measure.