

W. U. C. 1.
ORIGINAL

AGENDA COVER MEMO

DATE: February 14, 2006
TO: LANE COUNTY BOARD OF COMMISSIONERS
FROM: Bill Robinson, Lane County Surveyor *BR*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF ESTABLISHING A COUNTY ROAD TO BE KNOWN AS BOB STRAUB PARKWAY, BEING LOCATED IN SECTION 33, TOWNSHIP 17 SOUTH, AND SECTION 4, TOWNSHIP 18 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN (17-02-33 & 18-02-04)

I. MOTION

Move to Approve an Order to Establish a County Road, to be known as Bob Straub Parkway, being located in Section 33, Township 17 South, and Section 4, Township 18 South, Range 2 West of the Willamette Meridian.

II. ISSUE

Construction of the Bob Straub Parkway, from Main Street to the 57th/58th Street intersection, has been completed. It is necessary to decide whether the completed road project and its alignment should be legally established as a county road.

III. DISCUSSION

A. Background

Through the adoption of the Capital Improvement Program for FY 99/00 through FY03/04 by Order No. 99-5-5-19, and by Order and Resolution No. 98-12-9-19, Order No. 00-3-15-1, Order No. 02-3-20-3 and Order No. 04-2-4-3, the Board of Commissioners approved construction of a new arterial road between the Eugene-Springfield Highway and the Springfield-Creswell Highway. A public hearing was held on April 29, 1998 at Mt. Vernon Elementary School and a second public meeting held on December 9, 1998 to get public input on the project. Bob Straub Parkway (formerly referred to as Jasper Road Extension) is a two-part project that will serve as a connection between Main Street (State Highway 126-Business Route) and Jasper Road.

The name "Bob Straub Parkway" was formally requested by a letter from Sid Leiken, City of Springfield mayor, in honor of the late Bob Straub. Bob Straub was a long time resident of Lane County and Springfield and devoted most of his life to public service, serving as a County Commissioner for Lane County, State Treasurer, and Governor for the State of Oregon.

Bob Straub Parkway will be a limited access expressway and will shift through traffic away from South 57th Street and Mt. Vernon Road, providing a safer, more convenient route through this area. The portion of road to be established at this time is Phase 1, beginning at the intersection of Eugene-Springfield Highway (State Highway 126) and Main Street and extending southerly approximately 0.44 miles to the new 57th/58th Street intersection.

Phase 1 of the project falls within the Springfield city limits. The Lane County Home Rule Charter and ORS 373 provide that the County may enter into agreements with cities to expend funds in the acquisition of right of ways, improvements, construction or repairs of streets within cities. The City of Springfield and Lane County have entered into an Intergovernmental Agreement wherein both jurisdictions agree to the cooperation of responsibility for construction and maintenance of Phase 1 of the Bob Straub Parkway project.

The first phase of the Bob Straub Parkway project has been completed, including surveying, alignment design, mapping and construction of the road from Main Street to the 57th/58th Street intersection. The project was constructed in accordance with plans and specifications administered by the Lane County Department of Public Works Director.

B. Analysis

The report by the Director of the Department of Public Works, attached to the Order as Exhibit "B", notes that the construction of Bob Straub Parkway, from Main Street to the 57th/58th Street intersection has been completed and the road is open for public travel. The next step of the project is to complete the legal establishment of the road in accordance with ORS Chapter 368. The Order of Establishment accomplishes that action by providing for the acceptance of deeds acquired for right of way as a part of this project. The centerline description of the new alignment, including right of way widths, is attached to the Order as Exhibit "A."

The Public Works Department has surveyed the subject portion of Bob Straub Parkway in compliance with ORS Chapters 209.250 and 368.106 and has filed a road survey (County Survey File No. 39661) in the Lane County Surveyor's Office.

C. Alternatives/Options

The Board of County Commissioners has the options to:

1. Approve the Order of Establishment of Bob Straub Parkway as a County Road.
2. Deny all or any portion of the Order of Establishment of Bob Straub Parkway as a County Road.
3. Continue the motion for further consideration.

D. Recommendations

It is recommended that the Board of Commissioners approve Option 1. This will approve the Order of Establishment of Bob Straub Parkway as a County Road, as proposed and supported by the Public Works Director.

E. Timing

Timing is important, as ORS 368.106 requires that the Final Order of Establishment be recorded. Also, establishing this road as a county road will allow it to be included as part of the Lane County Road Maintenance System.

IV. IMPLEMENTATION/FOLLOW-UP

Upon approval by the Board of County Commissioners, the Order of Establishment and related attachments will be forwarded to the Lane County Clerk for filing and entering into the Board of Commissioners' Journal of Administration. The Order will be filed and indexed into the legal County Road Files administered by the Department of Public Works and the County Surveyor.

V. ATTACHMENTS

Order with Attachments:

Exhibit "A" - Legal Description

Exhibit "B" - Director's Report

Attachment "A" - Vicinity Map

Contact person: Bill Robinson, x4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

File No. 4130

IN THE MATTER OF ESTABLISHING A COUNTY)	
ROAD TO BE KNOWN AS BOB STRAUB PARKWAY,)	ORDER
BEING LOCATED WITHIN SECTION 33, TOWNSHIP)	OF ESTABLISHMENT
17 SOUTH, AND SECTION 4, TOWNSHIP 18 SOUTH,)	NO.
RANGE 2 WEST OF THE WILLAMETTE MERIDIAN)	
(17-02-33 & 18-02-04))	

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, and the Board through adoption of the Capital Improvement Program for the Department of Public Works has determined that it was beneficial to the public to construct a connector road between Main Street (State Highway 126) and Jasper Road; and

WHEREAS, through adoption of the Capital Improvement Programs FY 99/00 through FY 03/04, by Order No. 99-5-5-19 the Board of Commissioners approved the construction of a county road to be known as Bob Straub Parkway (formerly referred to as Jasper Road Extension); and

WHEREAS, City of Springfield mayor, Sid Leiken, requested that the road be named "Bob Straub Parkway" in honor of the late Lane County Commissioner and Governor of Oregon; and

WHEREAS, Bob Straub Parkway will begin at the intersection of the Eugene-Springfield Highway (Highway 126) and Main Street (Highway 126-Business Route), and extend in a southerly direction to intersect with Jasper Road; and

WHEREAS, due to budget constraints the project will be completed in two phases, the first phase being the section between Main Street and the 57th/58th Street intersection; and

WHEREAS, Phase 1 of Bob Straub Parkway lies within the city limits of Springfield and the Lane County Home Rule Charter and ORS 373 provide that the County may enter into agreements with cities to expend funds in the acquisition of right of way, improvement, construction or repairs of streets within cities; and

WHEREAS, Lane County and the City of Springfield have entered into an Intergovernmental Agreement wherein both jurisdictions have agreed to cooperate in the construction and maintenance of the road in Phase 1 of the Bob Straub Parkway project; and

WHEREAS, the Department of Public Works has completed the final road design and acquired all necessary right of way, on and over which the project has been laid out, for the first phase of this project; and

WHEREAS, the Public Works Department has completed the construction of the Phase 1 of Bob Straub Parkway, in accordance with the plans and specifications prepared and administered by the Public Works Director; and

WHEREAS, by provisions of ORS 368.106 the first phase of Bob Straub Parkway needs to be established as county road right of way; and

WHEREAS, the Department of Public Works has filed a road survey (County Survey File No. 39661) for public record all in compliance with ORS chapters 209.250 and 368.106; and

WHEREAS, the Board of County Commissioners being satisfied that necessary road construction and improvements have been completed and will be of public utility and benefit; now therefore, it is hereby

ORDERED that the deeds, or portions thereof, which lie within the road right of way specified herein, presented to the said Board of County Commissioners through purchase, donation, or agreement, as herein set forth below, on the dates set after the names of the Grantors, and before the recording information in the Lane County Deed Records, are hereby accepted as County road right of way:

<u>GRANTOR'S</u>	<u>LANE COUNTY RECORDING DATE</u>	<u>LANE COUNTY DEED RECORDS</u>	<u>TAX LOT NUMBER</u>
State of Oregon Dept. of Transportation	May 22, 2000	Deed Instrument	17-02-33-44 1300
		No. 2000028696	17-02-33-44 1307
			18-02-03-23 7700
City of Springfield	Jan. 28, 2000	Deed Instrument	17-02-33-44 1500
		No. 2000005281	105
			108
Mallard Construction Co.	June 19, 1998	Reel 2431R RR 9847492	18-02-04-11 122
Mountaingate Development Co.	Aug. 8, 2000	Deed Instrument 2000-045367	18-02-04-11 300
Weyerhaeuser Company	Nov. 15, 2000	Deed Instrument 2000-065489	18-02-03 700

and, it is further

ORDERED, that the said county road referred to above, and herein known as Bob Straub Parkway, is hereby established as described in the legal description attached hereto, made a part hereof and marked Exhibit "A" by this Order; and it is further

ORDERED, that in support of this action, the said Board of County Commissioners does hereby adopt the report of the Director of Public Works as set forth in Exhibit "B", which is attached hereto, and made a part hereof, by this Order; and it is further

ORDERED, that this Order be filed with the County Clerk and entered into the records of the Lane County Board of Commissioners Journal of Administration and into the County Road Files administered by the Lane County Department of Public Works and the Lane County Surveyor; and that said Order be, and is hereby final and does operate to establish said road as County Road No. 2255, herein known as Bob Straub Parkway.

DATED this _____ day of _____, 2006

3-14-06
[Handwritten Signature]

Chair
Lane County Board of Commissioners

BOB STRAUB PARKWAY**CENTERLINE DESCRIPTION**

A strip of land variable meters in width lying on each side of the centerline of Bob Straub Parkway, in Section 33, Township 17 South, Range 2 West and Section 4, Township 18 South, Range 2 West of the Willamette Meridian, Lane County, Oregon, as surveyed by Lane County in 2004; the centerline and widths in meters being described as follows:

Beginning at Engineers' Centerline Station L 1+000.000 POT, said station being 2816.478 meters North and 476.323 meters West of the Lane County Surveyors Office Brass Cap (1977) marking the West Northwest Corner of the John C. Looney Donation Land Claim Number 39, located in Section 10, Township 18 South, Range 2 West of the Willamette Meridian, Lane County, Oregon; run thence South 11° 51' 33" East, 453.003 meters; thence along a 1200.000 meter radius curve left (the long chord of which bears South 19° 37' 02" East, 323.969 meters) a distance of 324.961 meters to Engineers' Centerline Station L 1+777.964 PT and there ending, all in Lane County, Oregon.

The widths in meters of the strip of land herein described are as follows:

<u>STATION TO STATION</u>		<u>WIDTH ON WEST'LY SIDE OF C/LINE</u>	<u>WIDTH ON EAST'LY SIDE OF C/LINE</u>
L 1+011.250 POT	L 1+208.346 POT	40 meters	
L 1+208.346 POT	L 1+212.751 POT	40 meters tapering along a straight line to 50.054 meters	
L 1+212.751 POT	L 1+256.200 POT	50.054 meters tapering along an offset spiral (the long chord of which bears South 18° 03' 03" East, 43.704 meters) to 45.341 meters	
L 1+256.200 POT	L 1+365.993 POT	45.341 meters tapering on a straight line to 37.024 meters	
L 1+365.993 POT	L 1+570.626 POC	37.024 meters tapering on a straight line to 43.159 meters	
L 1+024.712 POT	L 1+253.532 POT		15.110 meters tapering on a straight line to 14.863 meters
L 1+253.532 POT	L 1+261.530 POT		14.863 meters tapering on a straight line to 47.582 meters
L 1+261.530 POT	L 1+303.980 POT		47.582 meters tapering on a straight line to 43.763 meters

<u>STATION TO STATION</u>		<u>WIDTH ON WEST'LY SIDE OF C/LINE</u>	<u>WIDTH ON EAST'LY SIDE OF C/LINE</u>
L 1+303.980 POT	L 1+303.998 POT		43.763 meters tapering on a straight line to 58.847 meters
L 1+303.998 POT	L 1+469.756 POC		58.847 meters tapering on a straight line to 19.006 meters
L 1+469.756 POC	L 1+472.311 POC		19.006 meters tapering on a straight line to 28.657 meters
L 1+472.311 POC	L 1+520.000 POC		28.657 meters tapering on a straight line to 29 meters
L 1+520.000 POC	L 1+547.152 POC		29 meters tapering on a straight line to 32.753 meters
L 1+547.152 POC	L 1+650.000 POC		32.753 meters tapering on a straight line to 20.567 meters
L 1+570.626 POC	L 1+579.333 POC	43.159 meters tapering on a straight line to 17.508 meters	
L 1+579.333 POC	L 1+585.000 POC	17.508 meters tapering on a straight line to 19.564 meters	
L 1+585.000 POC	L 1+638.993 POC	19.564 meters tapering on a straight line to 21.138 meters	
L 1+638.993 POC	L 1+681.493 POC	21.138 meters tapering on a straight line to 39.994 meters	
L 1+681.493 POC	L 1+705.404 POC	39.994 meters tapering on a straight line to 32.218 meters	
L 1+705.404 POC	L 1+710.000 POC	32.218 meters tapering on a straight line to 27 meters	
L 1+710.000 POC	L 1+750.000 POC	27 meters.	
L 1+650.000 POC	L 1+664.361 POC		20.567 meters tapering on a straight line to 22.873 meters
L 1+664.361 POC	L 1+684.710 POC		22.873 meters tapering on a straight line to 27.109 meters
L 1+684.710 POC	L 1+697.342 POC		27.109 meters tapering on a straight line to 29.555 meters

<u>STATION TO STATION</u>		<u>WIDTH ON WEST'LY SIDE OF C/LINE</u>	<u>WIDTH ON EAST'LY SIDE OF C/LINE</u>
L 1+697.342 POC	L 1+734.283 POC		29.555 meters tapering along a 227.441 meter radius curve right to 57.032 meters
L 1+734.283 POC	L 1+735.464 POC		57.032 meters tapering on a straight line to 36.095 meters
L 1+735.464 POC	L 1+750.000 POC		36.095 meters tapering on a straight line to 36.382 meters.

The bearings used herein are based on a bearing of South 53° 36' 19" West between LCCM 1159 and LCCM 1160 set by the Lane County Surveyors Office. Said bearing based on the Oregon Coordinate System (NAD 83/91), South Zone.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4130

IN THE MATTER OF ESTABLISHING A COUNTY)
ROAD TO BE KNOWN AS BOB STRAUB PARKWAY,)
BEING LOCATED WITHIN SECTION 33, TOWNSHIP)
17 SOUTH, AND SECTION 4, TOWNSHIP 18 SOUTH,)
RANGE 2 WEST OF THE WILLAMETTE MERIDIAN)
(17-02-33 & 18-02-04))

DIRECTOR'S REPORT

I, Oliver P. Snowden, Director of the Lane County Department of Public Works, pursuant to Lane County Board of Commissioners adoption of the Capital Improvement Program for FY 99/00 through FY 03/04, by Order No. 99-5-5-19, do hereby report that the Department has proceeded with the improvement and construction for Phase 1 of Bob Straub Parkway (formerly referred to as Jasper Road Extension). The name "Bob Straub Parkway" was formally requested by a letter from Sid Leiken, mayor of the City of Springfield, in honor of the late Bob Straub, former Lane County Commissioner and Governor of Oregon.

Phase 1 of Bob Straub Parkway is the first of a two-part project that will serve as a connection between Main Street in southeast Springfield and Jasper Road. The new road will be a limited access expressway and will shift through traffic away from South 57th Street and Mt. Vernon Road, providing a safer, more convenient route through this area. The portion of road to be established at this time begins at the intersection of Eugene-Springfield Highway (State Highway 126) and Main Street and extends southerly approximately 0.44 miles to the new 57th/58th Street intersection. This segment of roadway has four lanes with median/turn lane area, on-street bicycle lanes and sidewalks set back from the roadway.

Phase 1 of the project falls within the Springfield city limits. The Lane County Home Rule Charter and ORS 373 provide that the County may enter into agreements with cities to expend funds in the acquisition of right of ways, improvements, construction or repairs of streets within cities. The City of Springfield and Lane County have entered into an Intergovernmental Agreement wherein both jurisdictions agree to the cooperation of responsibility for construction and maintenance of Phase 1 of the Bob Straub Parkway project.

The Public Works Department has surveyed the portion of Bob Straub Parkway proposed to be established as County Road, in compliance with ORS Chapters 209.250 and 368.106 and has filed a road survey (County Survey File No. 39661) in the Lane County Surveyor's Office.

An Order to legally establish this road has been prepared. The Order provides for the acceptance of deeds for right of way purposes in conjunction with this project. The legal descriptions of the alignment including right of way widths are marked Exhibit "A" and attached to the Order of Establishment.

The public interest will be served, as the new road will provide a safer, more convenient route through the area. If the Order is approved it will establish the new road as a county road and will allow it to be included as part of the Lane County Road Maintenance System. It is therefore recommended that the Order of Establishment be approved and that it be filed with the County Clerk's Office and entered in the Commissioner's Journal of Administration. It is also recommended that the Final Order be entered into the legal County Road files administered by the Department of Public Works and County Surveyor for public record.

DATED this _____ day of _____, 2006.

Oliver P. Snowden, Director
Department of Public Works

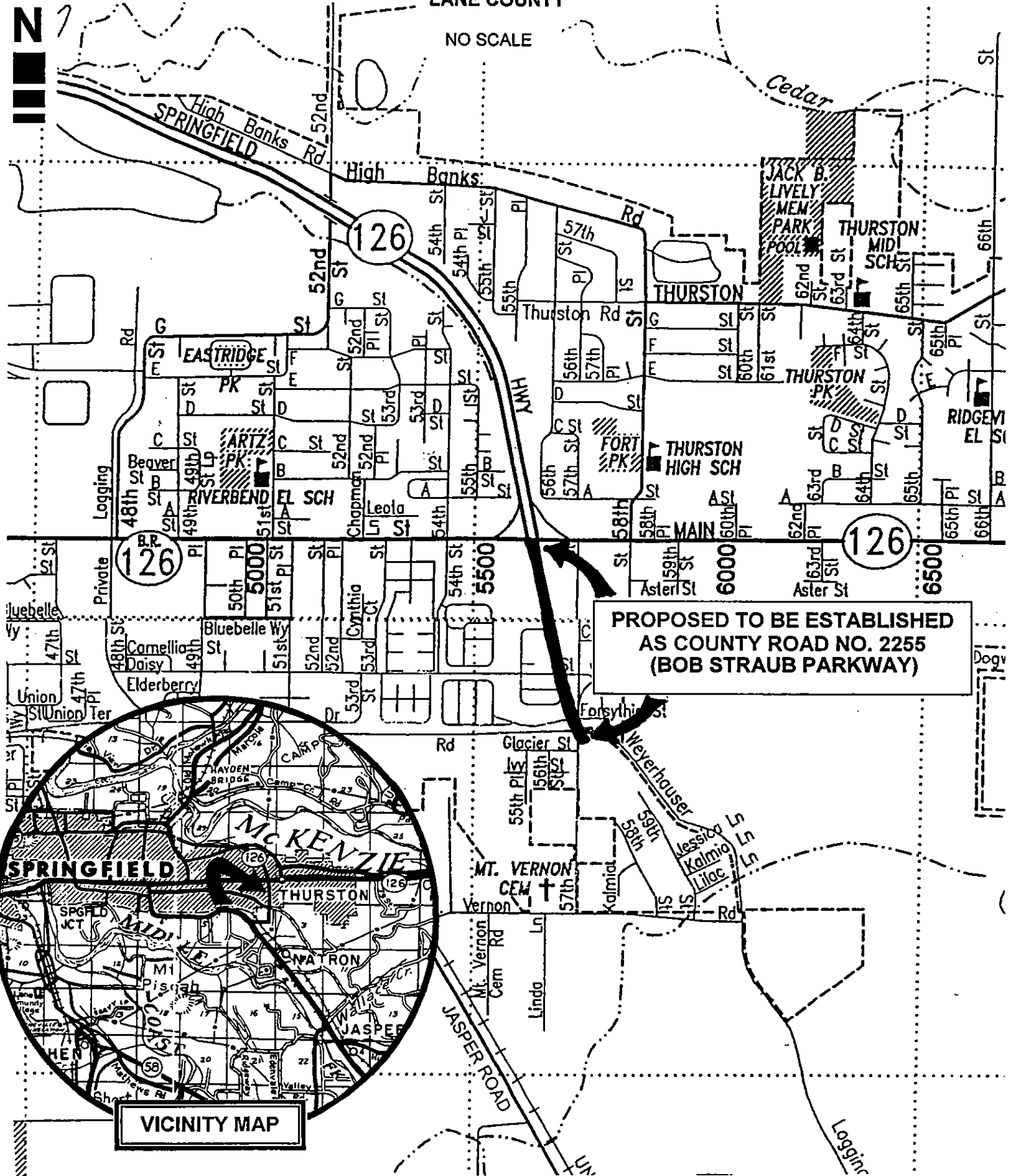
ATTACHMENT "A"

Section 33 T. 17S. R. 2 W. W.M.

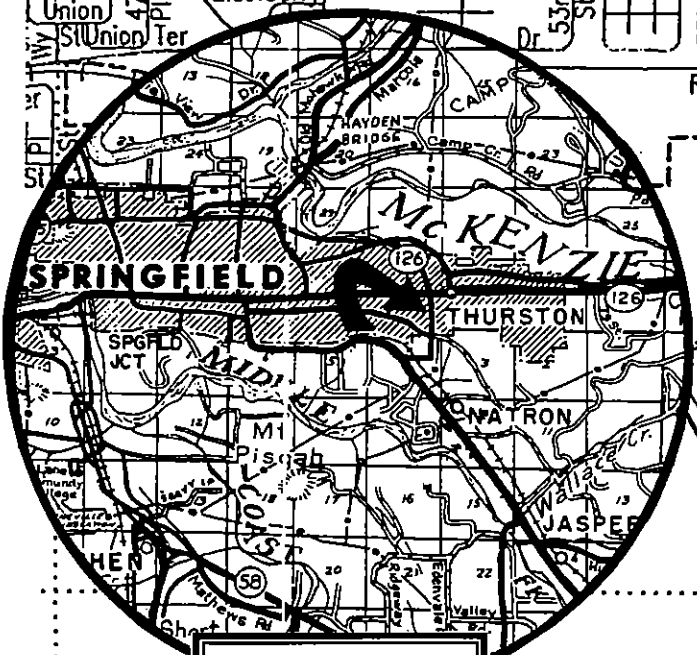
Section 4 T. 18S. R. 2W. W.M.

LANE COUNTY

NO SCALE



VICINITY MAP



PROPOSED TO BE ESTABLISHED AS COUNTY ROAD NO. 2255 (BOB STRAUB PARKWAY)

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 18-04

IN THE MATTER OF AMENDING CHAPTER 2 OF LANE CODE TO ESTABLISH A REAL PROPERTY COMPENSATION CLAIM APPLICATION PROCESS RESULTING FROM VOTER APPROVAL OF BALLOT MEASURE 37 (November 2, 2004), AND DECLARING AN EMERGENCY (LC 2.700 through 2.770)

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

Chapter 2 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

REMOVE THESE SECTIONS

2.700 through 2.710
located on page 2-14 through 2-19
(a total of 6 pages)

INSERT THESE SECTIONS

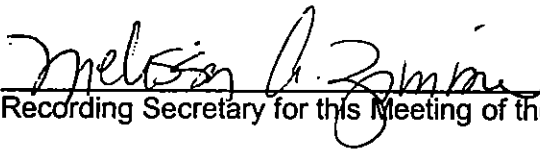
2.700 through 2.770
located on page 2-14 through 2-20
(a total of 7 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to amend Lane Code Chapter 2 to establish a real property compensation claim application process resulting from voter approval of Ballot Measure 37 (November 2, 2004) (LC 2.700 through 2.770). Until further action by the Board adopting city regulations for application within the Springfield and Eugene Urban Growth Boundaries, the provisions of LC 2.700 through 2.770 shall be applicable in those areas and the terms "County", "County Administrator", and "Board" shall mean "City", "City Manager", and "Council" as necessary for each city to process claims made for property within the Urban Growth Boundary of that city. The Board hereby authorizes city application review and related decisions as necessary for each respective city to respond to those claims.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

ENACTED this 15th day of December 2004.


Chair, Lane County Board of Commissioners


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11-9-2004 Lane County


OFFICE OF LEGAL COUNSEL

(2) The ballot title shall be referred by the Board in the form that it shall appear on the ballot. The title shall consist of a caption of not more than 10 words, a question of not more than 20 words in length, and an explanatory statement of not more than 150 words. The explanatory statement shall contain a concise and impartial statement of the issue presented to the voter.

(3) The general procedure for conducting advisory question elections shall be consistent with ORS Chapter 255. The County Clerk responsible for election matters shall have the authority to take appropriate action to guarantee the submission of the advisory question to the appropriate voter group.

(a) After receipt of the Board referral, the County Clerk shall provide notice of the advisory question in the same manner specified in ORS 255.095.

(b) Advisory questions may be conducted Countywide or within only a portion of the County, however, the areas designated by the Board shall follow precinct boundaries established pursuant to ORS 246.410.

(c) No election contests or recounts, as specified in ORS Chapter 258 shall be permitted.

(d) No challenge to the ballot title, consisting of the caption, the question and explanatory statement, shall be permitted after Board referral to the people under this ordinance.

(e) Advisory questions referred pursuant to this ordinance shall be preceded on the ballot by the following statement:

"Referred to the people by the Board of County Commissioners.
The questions are advisory only and shall have no binding legal effect whatsoever."
(Revised by Ordinance No. 15-78, Effective 8.29.78; 19-81, 1.8.82)

SERVICE DISTRICTS

2.660 Establishment of Local Service District.

Pursuant to Section 7 of the Charter, the method for establishing a local service district and for enlarging such a district already established, shall be as prescribed by the general laws of the State. *(Revised by Ordinance No. 17-72, Effective 9.8.72)*

2.665 Referendum in Local Service District.

Pursuant to Section 7 of the Charter, method for exercising the power of referendum in a local service district shall be as prescribed by the general laws of the State. *(Revised by Ordinance No. 17-72, Effective 9.8.72)*

REAL PROPERTY COMPENSATION/REGULATION APPLICATION PROCESS

2.700 Findings and Purpose.

(1) Findings. On November 2, 2004, the voters of the State of Oregon approved Ballot Measure 37 which added provisions to Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment to landowners if a government land use regulation reduces property value. Ballot Measure 37 permits owners of private real property to apply for compensation for the reduction of property value resulting from imposition of a land use regulation that restricts the use of private real property and the government has 180 days from such application to deny or pay the claim or take action to modify, remove, or not apply the regulation on the property. Since Ballot Measure 37 does not set forth a specific process for review of applications

for compensation, it is in the best interests of Lane County to establish such a process in order to be able to assess such claims in a timely manner.

(2) Purpose. The provisions of LC 2.700 through 2.770 implement the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004). The provisions of LC 2.700 through 2.770 establish a prompt, open, thorough and consistent process that enables property owners to present their legitimate claims consistent with the Oregon and U.S. Constitutions; enable persons with claims to have an adequate and fair opportunity to present them to the County; preserve and protect limited public funds; and establish a record of decision capable of appellate review. The provisions of LC 2.700 through 2.770 shall become operative only when the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) become effective. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.710 Definitions.

For the purpose of LC 2.700 through 2.770 the following terms, phrases, words and their derivations shall have the meaning given in LC 2.710. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. Words not defined in LC 2.700 through 2.770 shall be given the meaning intended in the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), or as those words may be subsequently defined by statute. Words used in LC 2.700 through 2.770 that are the same as words used in the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) shall have the same meaning as the words used in those provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), notwithstanding any different definition in any other regulation. If not defined there, the words shall be given their common and ordinary meaning.

Claim. A claim filed under Ballot Measure 37.

County Administrator. The County Administrator or the Administrator's designee.

Exempt Land Use Regulation. A land use regulation that:

- (1) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
- (2) Restricts or prohibits 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;
- (3) Is required to comply with federal law;
- (4) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
- (5) Was enacted prior to the date of acquisition of the property by the owner or a family member

Family Member. Includes 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.

Land Use Regulation. Includes:

- (a) Any statute regulating the use of land or any interest therein;
- (b) Administrative rules and goals of the Land Conservation and Development Commission; and

(c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances.

Owner. The present owner of the property, or any interest therein.

Valid Claim. A claim submitted by the owner of real property that is subject to a land use regulation adopted or enforced by Lane County that restricts the use of the private real property in a manner that reduces the fair market value of the real property. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.720 Application for Claim.

An applicant seeking to file a claim under LC 2.700 through 2.770 shall be the present owner of the property that is the subject of the claim at the time the claim is submitted. An applicant shall submit an application to the County Administrator consisting of all of the items set out in LC 2.720(1) through (9). The County Administrator may waive the submission of any materials if not deemed applicable to the evaluation of the specific claim. Within 10 working days of when the application is first submitted, the County Administrator may require additional information beyond that listed in LC 2.720(1) through (9) where useful to address approval criteria. The applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation. The County will not deem the application complete until all information required by the County Administrator has been submitted. Unless specifically waived by the County Administrator, the following must be submitted:

- (1) A completed application form;
- (2) The name, mailing address, and phone number of the property owner filing the application, and of each of the other owners of the subject property and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each, if any, along with the signature of each of the other owners indicating consent to the application claim;
- (3) A legal description and tax lot number of the subject property as well as a street address for the property (if any);
- (4) A title report issued within 30 days of the application's submittal, including title history and including a statement of the date the applicant acquired ownership of the subject property and showing the ownership interests of all owners of the property or, as an alternative to the title report, a copy of the deed(s) granting all existing ownership interests to the owner(s) of the subject property signing the application;
- (5) A statement specifically identifying the section of Lane Code or other land use regulation that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property, including the date the regulation was adopted, first enforced or applied to the subject property;
- (6) A copy of a written appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, addressing the requirements of the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after application of each of the challenged regulations, individually, and after the application of all of the challenged regulations, cumulatively;
- (7) A written statement addressing the criteria listed in LC 2.740(1)(a) through (d);
- (8) A statement by the applicant specifying the amount of the claim, and the fair market value of the property before and after application of the challenged land use regulation(s); and

(9) Copies of any leases or covenants, conditions and restrictions applicable to the subject property if any exist that impose restrictions on the use of the property. Unless waived by the County Administrator, an application also shall include an application fee, in the amount established by Order of the Board, to at least partially cover the County costs of processing the application, to the extent an application fee may be required as a condition of acceptance of filing of an application for a claim under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004). The County shall refund the application fee if it is determined by the County or by a court that the applicant is entitled to compensation under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004). *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.730 Completeness Review.

The County Administrator shall review a claim application and, within 10 working days of its receipt, notify the applicant as to whether the application is complete. If the County Administrator determines that the application is complete, the County Administrator shall begin the application review process. If the County Administrator determines that the application is incomplete, the county shall advise the applicant in writing of the necessary missing information. Within 10 days of the mailing of a notice of missing information, the applicant shall submit to the county a written statement indicating either an intent to submit the missing information or a refusal to submit the missing information. A statement indicating an intention to submit missing information shall constitute a waiver of the 180-day deadline contained in the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) for a period of time equal to the time it takes to supply the missing information. The County shall accept the application and begin review either:

- (1) Upon receipt of all of the missing information requested by the County;
- (2) Upon receipt of a written statement from the applicant indicating that the missing information will not be provided; or
- (3) Upon the 20th day after mailing the notice of missing information referred to above, if the applicant has not responded. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.740 Application Review and Recommendation.

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

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

(2) If an application fails to meet one or more of the criteria listed above, the County Administrator shall issue a written final decision denying the claim and explaining the reason(s) for determining that the application does not qualify for compensation consideration and will not be referred to the Board. If the application meets all of the criteria in LC 2.740(1)(a) through (d), the County Administrator shall refer the application to the Board and recommend, based on consideration of the criterion

at LC 2.760(3), that the Board either compensate the applicant for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation or modify, remove, or discontinue application of the land use regulation to the subject property.

(3) After consideration of the information included in the application and any other evidence obtained or received, the County Administrator shall determine whether modifying, removing, or discontinuing application of a land use regulation is necessary to avoid owner entitlement to compensation under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), and if so the extent needed to avoid the entitlement to such compensation and the amount of compensation to which the owner would be entitled without modifying, removing, or discontinuing application of a land use regulation. The County Administrator shall compare the public benefits from application of the land use regulation to the private real property with the public burden of paying the required compensation to the owner if a modification or waiver of the land use regulation is not granted, taking into consideration the financial resources of the County for the payment of such claims. Based on this comparison, the County Administrator shall prepare a written report to the Board stating these determinations and the evidence on which they are based.

(4) If waiver or modification of a land use regulation is necessary to avoid owner entitlement to compensation, the County Administrator shall make a recommendation either to grant a waiver or modification of the land use regulation that will avoid owner entitlement to compensation, grant a waiver or modification of the land use regulation that will not avoid but will reduce the compensation to which the owner is entitled and pay the reduced compensation, or deny a waiver or modification of the land use regulation and pay the compensation to which the owner is entitled.

(5) Notice of the denial or recommendation to Board shall be mailed to the applicant.

(6) The County Administrator shall issue a decision denying the claim or making a referral recommendation to the Board by the 45th day after the application was accepted. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.750 Application Notice.

(1) Within 5 days of the referral to the Board, but no less than 20 days before the Board holds a public hearing, written notice of the application referral shall be mailed to all of the following:

- (a) The applicant;
- (b) Other owners of the subject property and anyone with any interest in the property, including lien holders, trustees, renters, or lessees; as listed on the application;
- (c) Owners of record on the most recent property tax assessment roll of properties located within 500 feet of the perimeter of the subject property located entirely within an urban growth boundary or Rural Community and within 1500 feet of the perimeter of all other subject properties;
- (d) Neighborhood groups or community organizations officially recognized by the Board and whose boundaries include the subject property; and
- (e) Other agencies or interested parties as determined by the County Administrator.

(2) The failure of any person to receive notice shall not affect or invalidate any proceedings under LC 2.700 through 2.770.

(3) The notice shall include all of the following:

- (a) The street address or other easily understood geographical reference to the subject property;
 - (b) The criterion for the decision;
 - (c) The place, date, and location of the hearing;
 - (d) The nature of the application and the proposed use or uses which could be authorized if the identified land use regulation is waived or modified with respect to the subject property;
 - (e) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
 - (f) The name and telephone number of a county contact person;
- and
- (g) A brief summary of the local decision making process for the decision being made. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.760 Board Consideration and Decision.

(1) Upon conclusion of any hearing on a claim application, and prior to the expiration of 180 days from the date a claim was filed, the Board shall either declare:

(a) The claim is a valid claim and the amount of compensation, if any, due to the owner(s) of the subject property; or

(b) The claim is a valid claim and the County will, as of the date of the final Board decision, modify, remove, or choose not to apply the challenged land use regulation(s) in a manner which reduces the value of the subject property and allows the owner to use the property for a use permitted at the time the owner acquired the property.

(2) Where more than one regulation is being challenged, the Board may provide for a combination of the two remedies listed above.

(3) The Board decision shall be based upon consideration of whether the public interest would be better served by compensating the applicant, or by modifying, removing, or choosing not to apply the challenged land use regulation(s) to the subject property. The Board decision shall be accompanied by a written decision that states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria set forth in LC 2.760(3). 2.740(1)

(4) Within 5 days after the Board renders a decision, the County shall mail notice of the decision to all parties to the proceeding. The notice shall include a summary of the decision.

(5) The County shall record notice of the Board decision in the county deed records. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

2.770 Board Decision Effect.

(1) Pursuant to Ballot Measure 37 (November 2, 2004), and notwithstanding any other law, rule, ordinance, resolution, goal or other enforceable enactment of the County, and notwithstanding any other procedure for release, exception, or otherwise in the Lane Code, the Board is authorized to modify, remove, or discontinue application of a challenged land use regulation by Order pursuant to LC 2.700 through 2.770 when the Board, in its discretion, elects to do so rather than paying compensation to the property owner.

(2) Any modification, removal, or discontinued application of a regulation shall be in effect during such time as the owner owns the subject property and shall automatically cease when the property is owned by a new owner. Following termination of ownership of the property by the owner, the discontinued regulation or any subsequent amendments shall be reinstated and apply to the property, and the new property owner

shall, to the maximum extent permitted by law, bring the property immediately into compliance with the reinstated regulation.

(3) If the Board grants an Order modifying, removing, or discontinuing application of a challenged land use regulation as a means to avoid having to compensate, or as a means to limit compensation to, an owner under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), and if, based on an appellate court interpretation or invalidation of the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), in the same or any other case, the applying owner was not entitled to compensation in relation to the modified, removed, or discontinued challenged land use regulation, then the Order shall be deemed to have been invalid and ineffective as of and after the date of the Board's Order. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the County being required to compensate the owner under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

(4) Any modification, removal, or discontinued application of a challenged land use regulation Order granted under LC 2.700 through 2.770 shall terminate automatically on the occurrence of any event which determines the owner or future owner of the private real property that is the subject of the modified, removed, or discontinued application of a challenged land use regulation Order would not be entitled to just compensation under the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) in relation to the land use regulation made inapplicable by the Board Order. *(Revised by Ordinance No. 9-00, Effective 12.6.00)*

COUNTY LANDS AND BUILDINGS

2.800 Parking.

(1) The Board may designate by separate order certain locations on County-owned or controlled lands for parking purposes and may further order such regulation of parking considered reasonable and appropriate, including establishing user's fees and administrative charges in connection with such parking.

(2) For purposes of administration of any parking regulations ordered in accordance with LC 2.800(1) above, it shall be presumed:

(a) That a motor vehicle or other transportation vehicle was used with the owner's consent.

(b) That the owner of record was operating the vehicle whenever the actual operator is unknown.

(c) That a vehicle was parked for one-half the chargeable period whenever the actual time period is unknown. *(Revised by Ordinance No. 17-72, Effective 9.8.72; 18-77, 11.23.77)*

FEEES AND ASSESSMENTS

2.900 Fees to be Charged by the County Clerk for Recording and Other Services.

(1) The County Clerk shall charge no fees to Lane County or any of its Departments for recording.

(2) The fee for approval of a plat or a vacation order or ordinance by the county court is \$5.

(3) For recording and indexing any plat, the County Clerk, in whose office the deed records of the County are kept, shall charge \$20 plus \$10 per lot.

(4) The fee charged for the services of the County Surveyor for marking the record of a vacation order or ordinance upon the original plat shall be \$6.

(5) The fee for recording a copy of the location notice for a mining claim is \$5/document.

(6) The fee for recording an affidavit of annual labor upon a mining claim is \$5/page.

(7) The certificate described in ORS 517.280 shall not be issued until the co-owners entitled to it pay to the County Clerk a fee of \$12.50. The fee for recording the certificate shall be the same as for other mining conveyances, \$5 per page.

(8) For the preparation of and processing of a marriage license waiting period waiver request, the fee is \$4.

(9) Pursuant to ORS 203.148 a fee of \$10 shall be charged for recording any instrument under ORS 205.130(2). This fee is in addition to any other fee charged by the County Clerk. All moneys collected under this section shall be deposited in the Public Land Corner Preservation Fund. *(Revised by Ordinance No. 8-79, Effective 7.26.79; 5-84, 6.15.84; 6-86, 6.18.86; 19-86, 2.6.87; 15-87, 9.27.84; 5-03, 7.17.03)*

2.905 Law Enforcement Medical Liability Account Assessment.

Within 60 days of receipt of an assessment levied by Lane County Justice Courts pursuant to Section 5(4)(a) of Ch. 778 of 1991 Or Laws (SB 1142), the assessment shall be transmitted to the Oregon Department of Revenue for placement in the Law Enforcement Medical Liability Account. *(Revised by Ordinance No. 4-92, Effective 6.12.92)*

2.920 Forfeiture Assets.

Property or proceeds distributed to Lane County under Oregon Constitution article XV 10(7)(c) shall be deposited in the General Fund to be available for all lawful General Fund purposes. *(Revised by Ordinance No. 8-02, Effective 7.11.02)*



Measure 37

Proposed by Initiative petition to be voted on at the General Election, November 2, 2004.

Ballot Title

37

GOVERNMENT'S MUST PAY OWNERS OF PROPERTY ENFORCED WHEN GOVERNMENT LAND USE REGULATIONS REDUCE PROPERTY VALUE

RESULT OF VOTES: 64% of voters approved this measure. The measure was approved by 64% of voters in 15 of the 37 counties and by 51% of voters in 22 counties.

RESULT OF 2004 VOTES: 64% of voters approved this measure. The measure was approved by 64% of voters in 15 of the 37 counties and by 51% of voters in 22 counties.

SUMMARY: This measure requires that a government entity that enacts or enforces a land use regulation that restricts the use of real property and has the effect of reducing the fair market value of the property must pay just compensation to the owner of the property. The measure also requires that the government entity must file a claim for compensation with the circuit court in which the real property is located within 180 days of the date the land use regulation is enacted or enforced. The measure also requires that the government entity must pay the cost of attorney fees, expenses, costs, and other disbursements reasonable to collect the compensation.

ESTIMATE OF FINANCIAL IMPACT: The measure would require that government entities pay just compensation to the owner of the property when the government entity enacts or enforces a land use regulation that restricts the use of real property and has the effect of reducing the fair market value of the property.

THE MEASURE MAY REQUIRE GOVERNMENT ENTITIES TO: Pay just compensation to the owner of the property when the government entity enacts or enforces a land use regulation that restricts the use of real property and has the effect of reducing the fair market value of the property.

THE MEASURE MAY REQUIRE GOVERNMENT ENTITIES TO: Pay the cost of attorney fees, expenses, costs, and other disbursements reasonable to collect the compensation.

THE MEASURE WOULD REQUIRE GOVERNMENT ENTITIES TO: Pay just compensation to the owner of the property when the government entity enacts or enforces a land use regulation that restricts the use of real property and has the effect of reducing the fair market value of the property.

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THE MEASURE MAY REQUIRE GOVERNMENT ENTITIES TO: Pay the cost of attorney fees, expenses, costs, and other disbursements reasonable to collect the compensation.

Text of Measure

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 reasonable 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

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Measure 37

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.

Explanatory Statement

Ballot Measure 37 adds a new statute to ORS chapter 197. As specified in the measure, the owner of private real property is entitled to receive just compensation when a land use regulation is enacted after the owner or a family member became the owner of the property if the regulation restricts the use of the property and reduces its fair market value.

If a property owner proves that a land use regulation restricts the use of the owner's property, and reduces its value then the government responsible for the regulation will have a choice: pay the owner of the property an amount equal to the reduction in value or modify, change or not apply the regulation to the owner's property.

The measure allows the state, county, city or metropolitan service district to adopt procedures for processing claims for compensation, but prohibits those procedures from being treated as a prerequisite to the filing of a claim in circuit court.

The measure does not apply to commonly and historically recognized public nuisances, public health and safety regulations, regulations required to comply with federal law, and regulations restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.

The measure specifies that compensation is due if the regulation remains in force 180 days after the owner makes written demand for compensation. After that time, the present owner may file an action in the circuit court in the county in which the property is located. The measure also specifies that the present owner is entitled to reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred to collect compensation.

The measure provides no new revenue source for payments, if any, required under this measure.

The measure defines several terms that are used in the statute including "family member" which is defined as 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.

Committee Members:

David Hunnicutt
Dale Riddle
Bernie Bottomly
Patricia McCalg
Jack Roberts

Appointed by:

Chief Petitioners
Chief Petitioners
Secretary of State
Secretary of State
Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)

SENATE BILL 1037 – 02 (2005)

SUMMARY – May 9, 2005

1. Overview

The “-2” amendment to SB 1037 creates distinctions between different types of land for purposes developing the land, including development under Measure 37 (“M37”). This amendment distinguishes between farmland, forestland, land inside urban growth boundaries (“UGB’s”), and land on the fringe of UGB. Each of these areas is subject to specific provisions detailing the right to develop the land and the owner’s rights under M37. The amendment also clarifies the process for submitting and reviewing claims, and for judicial review of those decisions.

2. Farmland

Land that is currently zoned as farmland is divided into three categories: (I) High-value farmland, (II) non-high value farmland, and (III) non-resource land. Each category is subject to a specific level of rights under M37. The definition of each category is not settled. Rangeland is not separately identified or addressed.

(a) Category I:

- On high-value farmland, retroactive M37 claims would not be allowed (i.e. for regulations adopted prior to effective date of bill).
- M37 continues to apply prospectively to land use regulations adopted after effective date of bill.
- The amendment begins with the existing definition of high-value farmland in ORS 215.710, but limits Class IIIe and IVe soils in the Willamette Valley to those properties that, on January 1, 2005, included at least five acres planted in wine grapes. Also includes irrigated land and certain coastal areas.

(b) Category II:

- Non-high value farmland is defined by default as any farmland that is not high-value farmland or non-resource land.
- On non-high value farmland, M37 would apply prospectively to regulations adopted after effective date of bill that restrict residential use of the property.
- For regulations adopted prior to effective date, a person with a valid M37 claim may elect to partition or subdivide property down to 20-acres units (or the minimum lot size that applied at the time the owner acquired the property, whichever is larger).
- Alternatively, in lieu of the 20-acre minimum, a person with a valid M37 claim could divide the property to create one lot or parcel for every 10 acres, but the new lots/parcels could not be larger than two acres and have to be clustered together.

(c) Category III:

- Claims under M37 only apply to local regulations that exceed the requirements of state law.
- Includes land predominantly composed of Class VII and VIII soils.
- Allows partitions and subdivisions down to 20 acres units or one lot or parcel for every 10 acres, but the average size of the new lots/parcels may not exceed two acres and must be clustered together.
- Authorizes any use allowed by Goal 14.
- Local government can identify areas or property owner can apply to have property designated as non-resource.
- Any land currently zoned marginal or non-resource can be designated as non-resource.

3. Forestland

- (a) M37 is limited to restrictions adopted after the effective date of the bill.
- (b) Includes an exception to allow a an owner with a valid M37 claim to partition a single 40-acre parcel into three parcels, with a house on each one.

4. Inside UGB's

- (a) M37 is limited to regulations adopted after the effective date of the bill, except:
- (b) An owner may file an M37 claim for certain restrictions on residential development adopted to implement to Goal 5. Includes regulations protecting riparian areas, wetlands, wildlife habitat, natural areas or wilderness areas.

5. Urban Fringe

- (a) M37 claims may not be filed for nine months within one mile of the UGB of cities smaller than 5,000, and two miles of cities larger than 5,000 including the Portland Metro UGB.
- (b) Within the nine month period, the city (or Metro) must identify study areas for future UGB expansion within the one/two-mile buffer.
- (c) After the study areas are designated or the nine-months expire, any area that is not identified as a study area is subject to M37 and the other provisions of the bill.
- (d) Within a designated study area, an owner may file an M37 claim but the claim cannot be implemented until after January 1, 2015, or the city moves the UGB into the study area. However, in lieu of a valid M37 claim, a landowner may partition or subdivide the property into 20-acre lots or parcels.
- (e) After January 1, 2015, M37 and the rest of the bill apply to land in designated study areas. Land in a study area that is brought into the UGB becomes subject to the rules for urban areas.

6. Tract of Record

- (a) Allows a person to establish a house according the law that applied at the time the person acquired the property if the property does not currently contain a house.
- (b) If the property is a tract, all of the remaining lots and parcels must be consolidated into a single parcel.
- (c) Applies to the current owner or an heir or devisee of the person who purchased the property.
- (d) Applies to all land zoned for exclusive farm use.

7. M37 Claims Process

- (a) M37 will apply to “land use regulations” that restrict the use of property and reduce the value of the property. The definition of “land use regulation” is clarified. (Section 6.) This is an attempt to define the specific regulations that are subject to M37, instead of those that aren’t.
- (b) The amendment allows an M37 claim to be filed by the owner or a contract purchaser of the property.
- (c) All owners of the property must consent to the claim and it must be submitted to each public entity that enacted regulations for which the owner seeks compensation.
- (d) Allows the claimant to submit a “statement of reduced value” issued by an appraiser.
- (e) Requires the public entity to inform the owner if required information is missing from the claim and specifies when the 180-day clock starts.
- (f) Borrows existing land use “completeness” process.
- (g) Requires notice of the claim and an opportunity for interested persons to comment.
- (h) Clarifies the process for judicial review. Review is on the record developed by the public entity that reviewed the claim.

8. Valuation Methodology

The amendment directs the Department of Administrative Services to adopt rules for determining reduction in value. Authorizes appraisers to issue statement of reduced value developed under DAS rules.

9. Compensation Mechanism

- (a) Retroactive – Approval of a claim under M37 triggers the payment of property taxes deferred under certain special assessment programs. Includes:
 - EFU farm deferral.
 - Non-EFU farm deferral
 - Forestland deferral
 - Small woodlot deferral
 - Open space deferral.
 - Wildlife habitat deferral
 - Riparian land deferral

- (b) Prospective – Additional property taxes derived from the positive increment following disqualification are deposited into M37 compensation fund.
- (c) School districts continue to receive a portion of the taxes as required by the constitution. Cities, counties and metropolitan service districts must deposit the remainder into a regulatory compensation account.
- (d) Funds deposited into regulatory compensation account must be used to pay M37 claims.

10. Applicability Clause

Under this amendment, SB 1037 will apply to all M37 claims filed after January 1, 2005.

11. Effective Date

SB 1037 would become effective 90 days following passage.