

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Claim No. CL 06-19 for Compensation     )  
under Measure 37 submitted by Earl Gene Gross            )     Order No. 88-2006

WHEREAS, on May 30, 2006, Columbia County received a claim under Measure 37 (codified at ORS 197.352) and Order No. 84-2004 from Earl Gene Gross related to a 47.00-acre parcel on JP West Road, Scappoose, Oregon, having Tax Account Number 3211-000-00400; and

WHEREAS, according to the information presented with the Claim, Mr. Gross has continuously owned an interest in the property since 1956; and

WHEREAS, in 1956 the subject property was unzoned; and

WHEREAS, the subject parcel is currently designated FA-19 on the Columbia County Zoning Map; and

WHEREAS, pursuant to Columbia County Zoning Ordinance (CCZO) provisions that were adopted in 1984, non-resource dwellings and parcel sizes are regulated; and

WHEREAS, Mr. Gross claims that the minimum lot size requirements and dwelling standards have restricted the use of his property and has reduced the value of the property by \$3,795,000.00; and

WHEREAS, Mr. Gross desires to divide the property into 34 one-acre and one thirteen acre lots and place dwellings on those lots; and

WHEREAS, pursuant to Measure 37, in lieu of compensation the Board may opt to not apply (hereinafter referred to as "waive" or "waiver") any land use regulation that restricts the use of the Claimant's property and reduces the fair market value of the property to allow a use which was allowed at the time the Claimant acquired the property;

NOW, THEREFORE, it is hereby ordered as follows:

1. The Board of County Commissioners adopts the findings of fact set forth in the Staff Report for Claim Number CL 06-19, dated October 24, 2006, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. In lieu of compensation, the County waives CCZO Sections 201, 202, 210 and 407.1, to the extent necessary to allow the Claimant to divide and develop the subject property as proposed.



4. This Order shall be recorded in the Columbia County Deed Records, referencing the legal description which is attached hereto as Attachment 2, and is incorporated herein by this reference, without cost.

Dated this 8th day of November, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: Sarah Hanson  
Assistant County Counsel

By: Joe Corsiglia  
Joe Corsiglia, Chair

By: Rita Bernhard  
Rita Bernhard, Commissioner

By: Anthony Hyde  
Anthony Hyde, Commissioner

After recording please return to:  
Board of County Commissioners  
230 Strand, Room 331  
St. Helens, Oregon 97051

**COLUMBIA COUNTY  
LAND DEVELOPMENT SERVICES**

**Measure 37 Claim**

**Staff Report**

**DATE:** October 24, 2006

**FILE NUMBERS:** CL 06-19

**CLAIMANT/OWNER:** Earl Gene Gross  
PO Box 1489  
McMinnville, OR 97128

**CLAIMANT'S  
REPRESENTATIVE:** Michael G. Gunn  
Gunn & Cain LLP  
PO Box 1046  
Newburg, OR 97132

**SUBJECT PROPERTY**

**PROPERTY LOCATION:** 32373 JP West Road  
Scappoose, OR

**TAX ACCOUNT NUMBER:  
AND PARCEL SIZE** 3211-000-00400 47.00 acres

**ZONING:** Forest/Agriculture-19 (FA-19)

**REQUEST:** To subdivide the property into 34 one-acre lots and one thirteen acre lot  
for residential development

**CLAIM RECEIVED:** May 23, 2006

**180 DAY DEADLINE:** November 19, 2006

**NOTICE OF RECEIPT OF CLAIM:** August 24, 2006 (deadline). No comments have been received to date.

**BOCC REVIEW DATE:** November 8, 2006

**I. BACKGROUND:**

The subject property is an irregularly shaped parcel. JP West Road runs through the subject property on the northwest and southern portions of the property.

**APPLICABLE CRITERIA AND STAFF FINDINGS:**

**MEASURE 37**

(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.

A. PROPERTY OWNER AND OWNERSHIP INTERESTS:

1. **Current Ownership:** According to a revised title report dated May 22, 2006 and supplied by the Claimant, the property is currently owned by Earl Gene Gross in fee simple.

2. **Date of Acquisition:** Earl Gene Gross and his wife Ruby Jeanette Gross acquired the subject property via warranty deed on April 13, 1956, recorded in county deed records in Book 128, pages 428-29. Ruby Jeanette Gross conveyed her interest in the property to Claimant via a bargain and sale deed on March 4, 1982. For the purposes of this evaluation, staff concludes that Claimant's date of acquisition was April 13, 1956.

B. LAND USE REGULATIONS IN EFFECT AT THE TIME OF ACQUISITION

The property was not zoned when the Claimant acquired the parcel subject to the claim, and was therefore not subject to any minimum parcel size requirements or dwelling siting standards set out in the county zoning ordinance. The subject property is subject to subdivision regulations established by state statute in 1955.

C. LAND USE REGULATION(S) APPLICABLE TO SUBJECT PROPERTY ALLEGED TO HAVE REDUCED FAIR MARKET VALUE/EFFECTIVE DATES/CLAIMANT ELIGIBILITY

The FA-19 zoning designation was applied to the subject property in 1984, after Claimant acquired the subject property. The Claimant alleges that the FA-19 zoning designation prevents the Claimant from dividing his property and constructing dwellings on the resulting lots. Claimant alleges the following regulations reduce the fair market value of the subject property:

Columbia County Zoning Ordinance Sections 201, 202, 203, 204, 205, 206, 208, 209, 300, 400, 500, 1120, 1140, 1170, 1180, 1200, 1503 and any other ordinances/regulations that prevent the development of the property for 1-acre residential uses.

Columbia County Subdivision and Partitioning Ordinance Articles I, II, IV, V, VIII, IX, X and any other provisions that prevent the development of the property for 1-acre residential uses.

Columbia County Comprehensive Plan Chapters I, II, III, IV, V, VI, VII, VIII, IX, X, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, and any other plan provisions that prevent the development of the property for 1-acre residential uses.

D. CLAIMANT'S ELIGIBILITY FOR FURTHER REVIEW

Claimant acquired an interest in the property identified above before the adoption of county zoning ordinances and therefore the Claimant may be eligible for compensation and/or waiver of the cited regulations under Measure 37.

E. STATEMENT AS TO HOW THE REGULATIONS RESTRICT USE

Claimant states that he cannot divide his property as proposed due to the county's aforementioned land use regulations. Staff concedes that at least some of those provisions can be read and applied to "restrict" the use of Claimants' property within the meaning of Measure 37. However, most of the cited regulations do not restrict the use of the property or reduce its value. The requested use of the property is residential development on one acre parcels. CCZO Section 201, 202, 210 and 407.1 impose a 19 acre minimum lot size in the FA-19 zone which restrict the use of the property by prohibiting the subdivision into lots less than 19 acres. However, none of the other cited provisions restrict the use of the property.

Section 203 incorporates the zoning map into the zoning ordinance. However, the zoning won't restrict the use of the property if the minimum lot size is waived to allow subdivision into one acre lots. Section 204 sets for the process for amending the zoning map which has nothing to do with the use of the property. Section 205 describes the zone boundaries and has nothing to do with the use of the property. Section 206 imposes special building code provisions in hazard areas. The subject property is not in a hazard area. However, even if it was, extra safety precautions for building in a hazard area does not restrict the residential use of the property. It only makes the residential use safer. Furthermore, following special safety requirements would make the property more valuable. Finally, these restrictions would be exempt from waiver under Measure 37 for safety reasons. Section 208, describes redevelopment plans and is not applicable outside of the UGB and therefore does not restrict the use of this property. Section 209 requires development in accordance with the provisions established for the zoning district, and does not in and of itself restrict the use of the property. Rather, the specific provisions of the zoning district might restrict the use of the property (See discussion below). Section 300, for PA-38 zoned property does not apply to this FA-19 zoned property.

Section 400 sets forth the zoning regulations for FA-19 zoned property. However, with the exception of Section 407.1, imposing the 19 acre minimum lot size, the regulations don't restrict the use of the property for residential development. Section 401 describes the general purpose of the FA-19 zone and does not restrict or prohibit the use of the property. Sections 402 and 403 describe the permitted uses in the FA-19 zone. These provisions do not restrict or prohibit the proposed subdivision for single family dwellings because non-resource dwellings are allowed in the FA-19 zone as a conditional use and other types of dwellings are allowed as permitted uses. CCZO Sections 404, 405 and 4065 do not restrict or prohibit the proposed subdivision for development of single family dwellings because single family dwellings are allowed as conditional uses. During the hearing process on the proposed conditional use dwellings, conditions may be imposed that may restrict or prohibit the use. Some of those conditions may be exempt from waiver under Measure 37. However, the County cannot determine whether conditions will qualify for waiver under Measure 37 until the County knows what they are. CCZO Section 401.7 prohibits a division of land in the FA-19 zone below 19 acres. Staff concedes that this minimum lot size regulation restricts and prohibits the use of the property. However, the County does not have any information that the remaining standards set forth in Section 407 cannot be met and thereby restrict the use of the property. Section 408 relates to homestead lots and would not be applicable to a proposal to subdivide FA-19 property for residential dwellings. Section 409 describes the review process for partitions. The review process does not restrict or prohibit the use of the property. It is merely a process. Section 410 describes the rights to reestablish a prior use after fire and is not applicable to a proposal to subdivide in the FA-19 zone. Therefore, the section does not restrict or prohibit the proposed subdivision. Section 411 describes a notification process for state agencies. Notifying state agencies of proposed land uses does not restrict or prohibit the use of the property. Section 412 describes fire siting standards for dwellings and roads in the FA-19 zone. These standards are applied during the conditional use process and might have the effect of prohibiting or restricting the use of the property if a person could not meet the standards and therefore was denied a conditional use permit. However, the County does not have any information that would indicate that the Claimant can't meet the fire siting standards. Furthermore, even if there was such information in the record, the fire siting standards for roads and dwellings are exempt from waiver under section 3B of the Measure for public health and safety reasons.

Section 500 sets forth the zoning regulations for the PF-76 zone and is inapplicable to property zoned A-19.

Section 1120 sets forth the Sensitive Bird Habitat Overlay Zone. The County has no information that the property is within such an Overlay Zone. However, even if it was, the regulations simply require notification to ODFW. All uses permitted in the underlying zone are allowed in the Overlay zone. Furthermore, any plan established between ODFW and the property owner may be required to implement federal regulations and would therefore be exempt from waiver under Measure 37.

Section 1140 sets forth the Greenway Overlay Zone. The subject property is not located within such zone. Therefore, the regulations don't restrict or prohibit the use of the property.

Section 1170 sets forth the Water Quality, Streambank Stabilization and Fish and Wildlife Habitat regulations, none of which are known to apply to this property. However, even if they did apply, they don't necessarily restrict the use of the property without knowing what development is sought. During the development permit process any applicable provisions will be applied considering the proposed development. If a condition is imposed that restricts the use of the property, reduces the value and is not exempt, then the County can consider waiving it under Measure 37. Most of the regulations are probably exempt because they are required to implement federal regulations or to provide for public health and safety.

Section 1180 sets forth the Wetland Area Overlay none of which are known to apply to this property. However, even if they did apply, they don't necessarily restrict the use of the property without knowing what development is sought. During the development permit process any applicable provisions will be applied considering the proposed development. If a condition is imposed that restricts the use of the property, reduces the value and is not exempt, then the County can consider waiving it under Measure 37. Most of the regulations are probably exempt because they are required to implement federal regulations or to provide for public health and safety.

Section 1200 sets forth Planned Development process provisions. If the Claimant decides to do a Planned Development, the process set forth in 1200 does not restrict the use of the property. It is merely a process. The 19 acre minimum lot size would not apply if waived. Conditions may be imposed as a result of the process but without knowing what those might be, the County cannot determine that they restrict the use of the property, and reduce the value of the property or that they are not exempt under the Measure.

Section 1503 sets for the Conditional Use Permit process. If the Claimant decides to develop conditionally permitted dwellings in the proposed subdivision, this process would apply. However, the process does not restrict the use of the property because the use is allowed, albeit subject to conditions. If conditions are imposed as a result of the process that restrict the use of the property, reduce the value and are not exempt, then the County can waive under Measure 37. However, without knowing what conditions will be imposed, the County cannot make that determination.

The Subdivision and Partitioning Ordinance does not restrict the use of the property, once the minimum lot size has been waived. The Ordinance merely sets forth the process to partition or subdivide property. Standards will be imposed during the process. The County has no information to suggest that the Claimant cannot meet the subdivision standards. The Commission may impose reasonable conditions to approval of a partition or subdivision. However, without knowing what the conditions will be the County cannot make a determination that they restrict the use of the property, reduce the value of the property and are not exempt. The Claimant has not provided any information about what specific provisions he believes are subject to waiver under the Measure.

The Columbia County Comprehensive Plan is implemented through the Columbia County Zoning Ordinance and is not in and of itself applicable in a conditional use, subdivision or partition process other than the minimum lot size for the zone established on the Comprehensive Plan Map. However, if the County waives the minimum lot size for the Zone, the Comprehensive Plan Map has no effect on development. Therefore, the Comprehensive Plan does not restrict or prohibit the use of the property or reduce the value the property.

## F. EVIDENCE OF REDUCED FAIR MARKET VALUE

The Claimant submitted a statement alleging that the value of the property if the property was divided into 34 one-acre lots. The claim includes a current market value, and estimate the market value of the property if developed by the Claimant as proposed. The appraisal concludes that if conditional use permits were acquired for the dwellings, the conditions imposed will likely reduce the value of the lots, although the appraisal does not identify any specific conditions that would reduce value versus conditions that would increase value. The appraisal also does not consider the cost of improving the property or constructing roads, water or sewer systems to facilitate residential use.

1. Value of the Property As Regulated. \$115,000 for 34 acres; no value estimated for the entire 47 acres.
2. Value of Property Not Subject To Cited Regulations. According to the Claimant, the property would have a value of \$3,910,000 if divided into 34 one-acre lots with approval to construct a dwelling on each of the lots.
3. Loss of value indicated in the submitted documents is: \$3,795,000

While staff does not agree that the information provided by the Claimant is adequate to fully establish the current value of the property or the value of the property if it was not subject to the cited regulations, staff concedes that it is more likely than not that the property would have a higher value if subdivided into one acre lots developed with single family dwellings than a single resource-zoned parcel with a single-family dwelling located on it.

Staff notes that this value does not account for development costs and assumes that the resulting lots will be developed with dwellings prior to sale to third parties. If the subject property is merely subdivided and then sold as undeveloped lots, there is a significantly lower value, as the attorney general opinion concludes that while the Claimant himself may avail himself of the benefits of Measure 37 and develop the property according to the regulations in place at the time of acquisition, that benefit is not transferable.

G. COMPENSATION DEMANDED \$3,795,000 per page 1 of Claimant's Measure 37 Claim forms.

### **(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.**

Some of the regulations cited by Claimant may be exempt from M37 per (B) and (C) above. Siting standards, including fire suppression requirements, access requirements and requirements for adequate domestic water and subsurface sewage, continue to apply as they are exempt from compensation or waiver under Subsection



3(B), above. In addition, if the property is subject to federal protections, county regulations adopted to implement those protections are exempt from M37.

**(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.**

Should the Board determine that the Claimant has demonstrated a reduction in fair market value of the property due to the cited regulations, the Board may pay compensation in the amount of the reduction in fair market value caused by said regulation or in lieu of compensation, modify, remove, or not apply the waivable provisions.

**(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.**

The subject claim arises from the County's land use regulations which were enacted prior to the effective date of Measure 37 on December 2, 2004. The subject claims were filed on May 23, 2006, which is within two years of the effective date of Measure 37.

**(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.**

Should the Board determine that the that the Claimant has demonstrated a reduction in fair market value of the property due to the cited regulations, the Board may pay compensation in the amount of the reduction in fair market value caused by said regulation or in lieu of compensation, modify, remove, or not apply those regulations.

### **III. STAFF RECOMMENDATION:**

Based on the above findings, staff concludes that the Claimants have met the threshold requirements for proving a Measure 37 claim.

The following table summarizes staff findings concerning the land use regulations cited by the Claimant as a basis for his claim. In analyzing the claim, staff has considered the regulations that must be waived or modified to accomplish Claimant's stated development goal. In some circumstances, more information is needed at the

time a specific development proposal is submitted in order for staff to determine whether a particular land use regulation is waivable.

In order to meet the requirements of Measure 37 for a valid claim the cited land use regulations must be found to restrict use, reduce fair market value, and not be one of the land use regulations exempted from Measure 37. County zoning standards are identified by CCZO Section, Subdivision and Partitioning Ordinance provisions are identified by CCSPO Article Number. Comprehensive Plan provisions are identified by Chapter and or Policy.

The regulations identified in the following table have been specifically included in the claim and are summarily analyzed:

LAND USE CRITERION	DESCRIPTION	RESTRICTS USE?	REDUCES VALUE?	EXEMPT?
CCZO 201	Prohibits land divisions into smaller than the minimum parcel sizes allowed in zones	Yes	Yes	No
CCZO 202	Identifies the county's zoning districts	Yes	Yes	No
CCZO 203	Zoning Map depicts property zoning	No	No	No
CCZO 204	Amendments to the zoning map	No	No	No
CCZO 205	Boundaries of zones explained	No	No	No
CCZO 206	Special building permits required for development in hazardous areas	No	No	<b>YES (public health and safety)</b>
CCZO 208	Redevelopment plans required for certain development within urban unincorporated areas (does not apply to subject property)	No	No	No
CCZO 209	Development permits required for dwellings in resource zones	No	No	No
CCZO 210	Land divisions must conform to minimum lot size standards in the applicable zone	Yes	Yes	No
CCZO 300	PA-38 Zoning Regulations (property is not zoned PA-38)	No	No	No
CCZO 400	FA-19 Zoning Regulations (except 407.1)	No	No	<b>Some are exempt public health/safety regulations</b>
CCZO 407.1	FA-19 Zoning Minimum Lot Size	Yes	Yes	No
CCZO 500	PF-76 Zoning Regulations (property is not zoned PF-76)	No	No	No

CCZO 1120	Sensitive Bird Habitat Overlay	No	No	May be required to implement federal regulations
CCZO 1140	Greenway Overlay (property is not located within the Willamette Greenway)	No	No	May be required to implement federal regulations
CCZO 1170	Water Quality, Streambank Stabilization and Fish & Wildlife Protection	No	No	May be required to implement federal regulations or to provide for public health & safety
CCZO 1180	Wetland Area Overlay	No	No	May be required to implement federal regulations or to provide for public health & safety
CCZO 1200	Planned Development provisions	No	No	Some standards may be exempt public health and safety regulations
CCZO 1503	Conditional Use Provisions	No	No	Unknown
CCSPO	Subdivision and Partitioning Ordinance	No	No	Unknown
Comp. Plan	Comprehensive Plan	No	No	Unknown

Staff recommends the Board of County Commissioners take action to determine the amount, if any, by which the cited regulations reduced the value of the Claimants' property, and act accordingly to pay just compensation in that amount, or, in the alternative, to not apply those regulations. Staff recommends that the following provisions should be waived: CCZO Sections 201, 202, 210 and 407.1.

ATTACHMENT 2

LEGAL DESCRIPTION

THE FOLLOWING TRACTS OF LAND SITUATED IN SECTION 11 OF TOWNSHIP 3 NORTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, COUNTY OF COLUMBIA AND THE STATE OF OREGON.

PARCEL 1:

The Southeast one-quarter of the Northwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon.

Excepting from the above described premises, 3 acres of land described as follows:

COMMENCING at the Southeast corner of the Southeast one-quarter of the Northwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon; Thence North on the East line of said Southeast one-quarter of the Northwest one-quarter, 20 rods to a point; Thence West and parallel with the South boundary line of said Southeast one-quarter of the Northwest one-quarter, 24 rods to a point; Thence South and parallel with the East boundary line of said Southeast of the Northwest one-quarter, 20 rods to a point; Thence East on the South boundary line of the said Southeast one-quarter of the Northwest one-quarter, 24 rods to the PLACE OF BEGINNING.

Also:

COMMENCING at the Northeast corner of the Southeast one-quarter of the Northwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon; Thence East 8 rods to a point; Thence South and parallel with the East boundary line of said Southeast one-quarter of the Northwest one-quarter, 60 rods to a point; Thence West 8 rods to a point in the east boundary line of said Southeast one-quarter of the Northwest one-quarter; Thence North on said East boundary line of said Southeast one-quarter of the Northwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, Columbia County, Oregon, 60 rods to the PLACE OF BEGINNING.

Also:

BEGINNING at the intersection of the centerline of the J.R. West County Road (P-52) with the North line of the Northeast one-quarter of the Southwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon, which point is North  $89^{\circ}14'$  West, 770.23 feet from the center of Section 11;  
Thence South  $62^{\circ}02'$  East along the center of the present road, 271.2 feet;  
Thence continuing along the centerline of said road South  $74^{\circ}33'$  East to the intersection of the East line of a certain tract of land, as described in deed from Frank Novak, et ux, to C. F. Gorsage and Emma C. Gorsage, recorded in Book 11, Page 66, Deed Records;  
Thence North along the East line of said property to the North line of the Northeast one-quarter of the Southwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon;  
Thence West along said North line 255 feet to the point of beginning.

Excepting therefrom that tract of land described in Bargain and Sale Deed recorded June 21, 2000 as Fee No. 2000 00472, described as follows:

Beginning at a point on the North line of the Southwest one-quarter of Section 11, Township 3 North Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon; said point being North  $89^{\circ}17'13''$  West, 575.23 feet from a 1" diameter iron pipe described on Columbia County survey map 137, as the center of said Section 11;  
Thence North  $89^{\circ}17'13''$  West, 29.76 feet to a point;  
Thence South  $1^{\circ}37'30''$  West, 101.87 feet to a point;  
Thence South  $69^{\circ}45'00''$  East, 34.80 feet to a point;  
Thence North 113.50 feet to the point of beginning.

PARCEL 2:

The Northeast one-quarter of the Southwest one-quarter of the Northwest one-quarter of Section 11, Township 3 North, Range 2 West of the Willamette Meridian, in the County of Columbia and State of Oregon.