

**AFTER RECORDING, RETURN TO:**

Board of County Commissioners  
Columbia County Courthouse  
230 Strand, Room 331  
St. Helens, OR 97051

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON**

In the Matter of Claim Nos. 07-83 and CL 07-84           )  
Submitted by Loren Ellis Jr., Gloria Ellis, Stephen       ) Order No.100-2007  
Ellis and Karen Ellis for Compensation Under            )  
Measure 37   )

WHEREAS, on December 1, 2006, Columbia County received two claims for compensation under Measure 37 and Order No. 34-2007 from Loren Ellis Jr., Gloria Ellis, Stephen Ellis, and Karen Ellis, related to two parcels of property located on Nehalem Highway in Vernonia, Oregon, having tax account numbers 5426-000-00300 and 5426-000-00301; and

WHEREAS, according to the information presented with the Claims, Loren Ellis Jr. and Gloria Ellis acquired an interest in the property in 1963, and Stephen Ellis and Karen Ellis acquired an interest in the property in 1999; and

WHEREAS, the County zoned the subject property as Primary Forest (PF-76) in 1984, prior to the acquisition by Stephen and Karen Ellis, but after the acquisition by Loren and Gloria Ellis; and

WHEREAS, pursuant to Columbia County Zoning Ordinance (CCZO), Section 506.1, the minimum lot or parcel size for new land divisions in the PF-76 zone is 76 acres; and

WHEREAS, the Claimants claim that the minimum lot size requirement for new land divisions has restricted the use of the property and has reduced the value of the property by \$686,700; and

WHEREAS, the Claimants desire to subdivide the property for residential development; 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 property and reduces the fair market value of the property to allow

a use which was allowed at the time the Claimants acquired the property; and

WHEREAS, in 1963, Loren and Gloria Ellis could have divided the property into 5 acre minimum lot size parcels; and

WHEREAS, in 1999, Stephen and Karen Ellis could not have divided the property into five acre minimum lot size parcels;

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 Numbers CL 07-83 and CL 07-84, dated April 13, 2007, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The County denies the Claims as to Stephen Ellis and Karen Ellis.
3. The County approves the Claims as to Loren Ellis Jr. And Gloria Ellis (hereinafter referred to as the "Claimants"). In lieu of compensation, the County waives CCZO Sections 604.1 to the extent necessary to allow the Claimants to subdivide the property into two parcels having not less than 5 acres minimum lot size.
4. This waiver is subject to the following limitations:
  - A. This waiver does not affect any land use regulations of the State of Oregon. If the use allowed herein remains prohibited by a State of Oregon land use regulation, the County will not approve an application for land division, other required land use permits or building permits for development of the property until the State has modified, amended or agreed not to apply any prohibitive regulation, or the prohibitive regulations are otherwise deemed not to apply pursuant to the provisions of Measure 37.
  - B. In approving this waiver, the County is relying on the accuracy, veracity, and completeness of information provided by the Claimants. If it is later determined that Claimants are not entitled to relief under Measure 37 due to the presentation of inaccurate information, or the omission of relevant information, the County may revoke this waiver.
  - C. Except as expressly waived herein, Claimants are required to meet all local laws, rules and regulations, including but not limited to laws, rules and regulations related to subdivision and partitioning, dwellings in the forest zone, and the building code.
  - D. This waiver is personal to the Claimants, Loren Ellis, Jr. and Gloria Ellis, does not run with the land, and is not transferable except as may otherwise be required by law.
  - E. By developing the parcel in reliance on this waiver, Claimants do so at their own risk and expense. The County makes no representations about the

legal effect of this waiver on the sale of lots resulting from any land division, on the rights of future land owners, or on any other person or property of any sort.

5. 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 25th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: Sarah Dawson  
Assistant County Counsel

By: Rita Bernhard  
Rita Bernhard, Chair

By: Anthony Hyde  
Anthony Hyde, Commissioner

By: Joe Corsiglia  
Joe Corsiglia, Commissioner

**COLUMBIA COUNTY LAND DEVELOPMENT SERVICES**  
**MEASURE 37 CLAIM**  
**STAFF REPORT**

DATE: April 13, 2007

FILE NUMBER(s): CL 07-83 & 84

CLAIMANT: Loren Ellis, Jr., Gloria Ellis, Stephen Ellis & Karen Ellis; 37037 Ellis Farm Road; Scappoose, OR 97056

CLAIMANT'S REPRESENTATIVE: David Brian Williamson, Attorney At Law; P.O. Box 656; St. Helens, OR 97051

PROPERTY LOCATION: 61270 & 61274 Nehalem Highway N.; Vernonia, OR 97064

TAX ACCOUNT NUMBERS: 5426-000-00300  
5426-000-00301

ZONING: Primary Forest - 76 (PF-76)

SIZE: 5426-000-00300: Approximately 39.75 acres  
5426-000-00301: Approximately 123.98 acres

TOTAL: 163.73 acres

REQUEST: To divide the property into 5-acre parcels "and use as...non-resource, single family dwellings, or any other use which was not prohibited on May 23, 1963 when Claimants acquired the property."

CLAIM RECEIVED: December 1, 2006

REVISED 180 DAY DEADLINE: May 30, 2007

RECEIPT OF CLAIM NOTICE: Claim notices were mailed on March 29, 2007. The comment period ended on April 12, 2007.

Chris Antilla, a Land Use Forester with Weyerhaeuser Co. submitted a comment on April 10, 2007. Mr. Antilla stated that if the claim were approved, the Company would like to ensure that the deeds for future residential subdivision contain a "good neighbor clause" waiving the purchaser's rights to object to commercial forestry activities in the area.

No request for hearing has been received.

**I. BACKGROUND:**

The subject property is made up of two contiguous properties. Together, Tax Lot 300 and 301 have large areas of pasture and some trees. Tax Lot 301 has two homes and other structures on it. Access is provided by Nehalem Highway. The Claimants, Loren and Gloria Ellis acquired the property in 1963. Claimants, Stephen and Karen Ellis acquired the property in 1999.

## DESCRIPTION

Whether or not a property is a legally platted lot or parcel created by a Subdivision or Land Partition, respectively, or a legal lot-of-record is not included in the review for a Measure 37 Claim. If the property reviewed by this claim is neither of these, this could impact any subsequent development under this claim.

## II. APPLICABLE CRITERIA & 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 & OWNERSHIP INTERESTS

1. **Current ownership:** Based on the information provided, it appears the subject property is owned by the Claimants, Loren and Gloria Ellis, as tenants in common, but not with right of survivorship. Stephen and Karen Ellis have a vendee's interest, pursuant to a contract of sale executed on December 27, 1999.
2. **Date of Acquisition:** Loren Ellis, Jr.'s parents originally acquired the property in 1956. Loren Ellis, Jr. and Gloria Ellis acquired the property in May of 1963. The Claimants provided a copy of a warranty deed executed on May 23, 1963, which is recorded in Book 152, Page 192 of the Columbia County deed records.

On December 27, 1999 Loren and Gloria Ellis contracted to sell the property to Stephen and Karen Ellis. The chain of title report submitted by the Claimants indicates that as of November 21, 2006, there has been no recording of a deed in the name of Stephen and Karen Ellis. For the purpose of this claim, the Stephen and Karen Ellis have an acquisition date of December 27, 1999.

### B. LAND USE REGULATION(s) IN EFFECT AT THE TIME OF ACQUISITION

The property was not subject to County Zoning regulations when it was acquired by Loren and Gloria Ellis in 1963. The County did not have a Zoning Ordinance which applied to the subject property until August 1, 1984, when the minimum lot/parcel size standards of the PF-76 zone became effective. However, the property was subject to the current Zoning Ordinance when Stephen and Karen Ellis obtained their interest in the property in 1999.

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

The Claimants cite the following provisions of the Columbia County Comprehensive Plan (CCCP) as restricting their use of the property:

| PROVISION | DESCRIPTION  |
|-----------|--|
| Part I    | Provides for administrative procedures including implementation and compliance   |
| Part II   | Provides for public involvement in the use of Claimant's property  |
| Part IV   | Provides for the designation of Claimant's land as primary forest land and limits its uses   |
| Part IX   | Limits development and location of housing to designated areas   |
| Part XVI  | Prevents or limits development of land to provide public with open space, big game habitat, fish habitat, other wildlife habitat, wetlands, riparian areas, cultural areas, and scenic resources |

The Claimants cite the following provisions of the Columbia County Zoning Ordinance, effective August 1, 1984, as restricting their use of the property:

| PROVISION   | DESCRIPTION   |
|-------------|---|
| 100         | Definitions   |
| 201         | Requires compliance with the Zoning Ordinance   |
| 202         | Sets forth the Zoning Districts and Minimum Lot Sizes   |
| 203-208     | General sections referring to the Zoning Map, amendments to the Zoning Map, boundaries of zones, building in hazard areas, condominiums, and redevelopment plans.             |
| 209         | Requires that all requests for dwellings on resource land shall be reviewed in accordance with the provisions established in each district.                                   |
| 210         | Prohibits new lots smaller than minimum designated lot size in zoning district  |
| 213-18      | General setbacks, pending building permits, ingress and egress, unsafe building, and basement dwelling and building conversion provisions applicable to all zoning districts. |
| 219         | Prescribes timing of installation of screening if required by other provisions of the zoning code.  |
| 500         | Section heading   |
| 501         | Provides that the purpose of the PF Zone is to retain forest land for forest use, and allows dwellings only under certain conditions  |
| 502         | Sets forth the permitted uses in the PF zone  |
| 503 and 504 | Conditional Uses and requirements for Conditional Uses in the PF zone   |
| 505         | Sets forth requirements for Residential Structures in the PF zone   |

|     |   |
|-----|---|
| 506 | Sets forth the minimum lot size in the PF zone  |
| 507 | Sets forth requirements for approval of a lot or parcel division for a principal dwelling on the effective date of the zoning ordinance |
| 508 | Discusses non-forest use that are unintentionally destroyed   |
| 509 | Relates to notification of state agencies for certain uses  |

The Claimants cite the following provisions of the Columbia County Subdivision and Partition Ordinance, adopted May 23, 1990, as restricting their use of the property:

| SECTION | DESCRIPTION   |
|---------|---|
| 104     | Adopts the Comprehensive Plan and its designations  |
| 201     | Requires compliance with ORS 92.010 and 92.190  |
| 205     | Requires submission of a sketch and discussion of various matters, including compliance with the Comprehensive Plan. Also requires compliance with other county ordinances, including the zoning ordinance. |
| 206     | Requires compliance with conditions laid down by the County   |
| 210     | Restricts variances, including a provision that they shall not vary the provisions of the zoning ordinances and Comprehensive Plan  |
| 211     | Allows for enforcement  |
| 213     | Provides for notice to people who do not own Claimant's land  |
| 1001    | Sets requirements and standards of the subdivision and partition ordinance as the minimum standard  |
| 1002    | Requires that the "intent and design" of the proposed subdivision conform to and be in harmony with the Comprehensive Plan and zoning ordinance.  |
| 1003    | Places restrictions on lots   |
| 1005    | Places restrictions on streets and roadways   |
| 1011    | Authorizes the County to require pedestrian walkways  |
| 1012    | Authorizes the County to require and regulate drainage  |
| 1015    | Authorizes the County to impose other requirements  |

The Claimants cite the Columbia County Surface Mining Ordinance and its amendments as restricting their use of the property. Staff finds that the Surface Mining Ordinance is not a land use regulation, as defined by Measure 37. Nevertheless, even if it were a land use regulation under Measure 37, Staff finds that the Surface

Mining regulations are not applicable to this Claim, as the Claimant seeks to divide the property for residential development. If the Claimant seeks to engage in surface mining on the subject property, the Surface Mining Ordinance cannot be waived to the extent that it protects public health and safety.

#### D. CLAIMANT'S ELIGIBILITY FOR FURTHER REVIEW

Claimants Loren and Gloria Ellis acquired an interest in the property before the minimum lot/parcel size standards of the PF-76 zone became effective. Therefore, they may be eligible for compensation and/or waiver of CCZO 506.1 under Measure 37. However, Stephen and Karen Ellis did not obtain an interest in the property until 1999, after the PF-76 standards were in place. Therefore, Stephen and Karen Ellis are not eligible for waiver of CCZO 506.1 under Measure 37, although they may be eligible for compensation due to family acquisition in 1963.

#### E. STATEMENT AS TO HOW THE REGULATIONS RESTRICT USE

The Claimants state that the cited regulations prevent the property from being divided into 5-acre parcels with non-resource single family dwellings or other use which was not prohibited on May 23, 1963. Measure 37 permits waiver to allow a use that was allowed when the current owner acquired the property, not waiver to allow any and all uses that were allowed when the current owner acquired the property.

#### Columbia County Comprehensive Plan

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.

#### Columbia County Zoning Ordinance

Section 201 requires compliance with the zoning ordinance provisions within the zoning districts. Staff finds that with exception of provisions that are subject to waiver, the Claimants must comply with the zoning ordinance and there is no basis for waiver of this section.

Section 202 sets forth the Zoning Districts and Minimum Lot Sizes. While this is merely a general provision, further regulated under the relevant zoning district applied to the subject property, this provision could be read to restrict the use of the subject property.

Sections 203-208 contain general sections referring to the Zoning Map, amendments to the Zoning Map, boundaries of zones, building in hazard areas, condominiums, and redevelopment plans., and a requirement for dwellings to be reviewed in accordance with provisions in each district. Staff finds that these provisions are not relevant to the claim and do not restrict uses intended by the Claimants. Section 203 incorporates the zoning map into the zoning ordinance. However, the fact that the map is incorporated doesn't restrict the land division if the minimum lot size is waived. Section 204 sets forth 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. According to information provided with the Claim, staff has no basis to believe that the subject property is 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 207 applies to condominiums and is not applicable to a proposal for single family dwellings. Regardless, the section does not limit condominiums, only setting forth a process for them. 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 209 requires that all requests for dwellings on resource land shall be reviewed in accordance with the provisions established in each district. Staff finds that such a review requirement does not restrict the use of the property, or reduce its use. Review is merely a process. One or more conditions may be imposed during the review process that may restrict use and reduce the property value. However, one cannot assume such an outcome.

Section 210 restricts the partition or subdivision of land into parcels smaller than the parcel size established in the zoning district. While this section is general in nature, it can be read to restrict the use of the property.

Section 213-218 prescribe general setbacks, address how pending building permits are to be processed, prescribe ingress and egress requirements, restoration of unsafe buildings, basement used for dwellings and building conversion provisions applicable to all zoning districts. Based on the information provided in the Claim, the County has no knowledge that any building to be built on the property cannot meet setbacks, ingress and egress, and building requirements. Therefore, there is no basis to believe they will restrict a residential use of the property. In addition, these requirements are a matter of public safety and are therefore exempt from waiver under Measure 37.

Section 219 requires that, if sight obscuring fencing or planting is required, it be done before commencement of the use. Staff finds that this does not impose the fencing screening requirement but merely prescribes timing and therefore does not restrict use.

Section 500 sets forth the zoning regulations for PF-76 zoned property.

Section 501 describes the general purpose of the PF-76 zone and does not restrict or prohibit the use of the property.

Sections 502 and 503 describe the permitted and conditional uses in the PF-76 zone. These provisions do not restrict or prohibit the proposed subdivision for single family dwellings because non-resource dwellings are allowed in the PF-76 zone as a conditional use and other types of dwellings are allowed as permitted uses.  
CCZO

Sections 504, 505 and 506 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 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 506.1 prohibits a division of land in the PF-76 zone below 76 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 504, 505, and 506 cannot be met or otherwise

restrict the use and reduce the value of the property.

Section 507 allows a smaller homestead lot down to two acres be partitioned from the remainder of a resource parcel containing the land to remain in resource use. Staff finds that this provision allows a land owner to separate the single family residential use from the portion of the property that is in resource use. Based on the proposed division of the property into 5 acre parcels, this provision does not restrict the Claimants from dividing the property into five acre parcels for non-resource residential use as they propose.

Section 508 allows replacement of a non-resource dwelling destroyed by fire or other casualty consistent with health and safety construction codes. Staff finds that his provision does not limit or restrict non-resource dwellings, but allows them to be replaced if destroyed.

Section 509 relates to notification of state agencies for certain uses. Staff finds this is a procedural requirement and does not restrict use.

#### Columbia County Subdivision and Partitioning Ordinance

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 the 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. Moreover, the Claimant fails to address how a properly subdivided property could possibly be worth less than property that does not go through a recognized subdivision process. Staff doubts that any financing would be available for such a development due to the uncertainty surrounding it. Furthermore, staff presumes that a potential buyer would pay more for a lot that can be shown to have been legally created than for a lot that cannot be shown to have been legally created. Finally, the 1963 Subdivision Ordinance was in effect when the Claimant acquired the property in 1963.

The proposal is to divide the property into lots /parcels less than the 76 acre minimum lot size in the PF-76 zone. As such the regulations that clearly prevent the Claimants from developing their property as proposed are CCZO 202(Standard applied to Zoning Districts); CCZO 210(Minimum Lot Sizes in Zoning Districts) and CCZO 506.1(Minimum lot size).

#### F. EVIDENCE OF REDUCED FAIR MARKET VALUE

1. **Value of property as regulated:** According to a Land Appraisal Report submitted by the Claimants, the market value of Lot 301 is \$270,000. The Report did not include an appraised value for Lot 300. The Claimants submitted an Affidavit of Value, in which Stephen Ellis stated that, in his opinion, Lot 300 has a value of \$86,000. Staff notes that based on County Assessor data the property's real market value for the land itself is \$630,600 for Lot 301 and \$243,100 for Lot 300.
2. **Value of property not subject to cited regulations:** The Land Appraisal Report concluded that

a comparable 5-acre parcel would have an average sale price of \$47,000. If the property were divided into roughly thirty-two 5-acre parcels as proposed, this would suggest a value of \$1,504,000 for both tax lots.

3. **Loss of value as indicated in the submitted documents:** The Claims allege a total reduction in value of \$166,700 for Tax Lot 300 and \$520,000 for Tax Lot 301.

Staff does not agree that the information provided by the Claimants 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 regulation(s). Staff concedes, however, that it is more likely than not that the property would have a higher value if it could be divided for residential development as proposed.

G. COMPENSATION DEMANDED

As noted on page 1 of the Measure 37 Claim Forms: \$166,700 for Tax Lot 300 and \$520,000 for Tax Lot 301.

**(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.**

CCZO 202, 210 and 506.1 do not qualify for any exclusions listed.

Staff notes that other standards including but not limited to fire suppression/protection, access, adequacy of domestic water, subsurface sewage, erosion control and stormwater requirements continue to apply as they are exempt from compensation or waiver under Subsection 3(B), above.

**(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 Claimants have 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(s) or in lieu of compensation, modify, remove, or not apply CCZO Section(s) 202, 210 and 506.1.

**(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 minimum lot/parcel size of the PF-76 zone which was enacted prior to the effective date of Measure 37 on December 2, 2004. The subject claim was filed on November 30, 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 Claimants have demonstrated a reduction in fair market value of the property due to the cited regulation(s), the Board may pay compensation in the amount of the reduction in fair market value caused by said regulation(s) or in lieu of compensation, modify, remove, or not apply said regulations.

**III. STAFF RECOMMENDATION:**

The following table summarizes Staff findings concerning the land use regulation(s) cited by the Claimants as a basis for the claim. In order to meet the requirements of Measure 37 for a valid claim, the cited land use regulation must be found to restrict use, reduce fair market value, and not be one of the land use regulations exempted from Measure 37.

| LAND USE CRITERION | DESCRIPTION   | RESTRICTS USE? | REDUCES VALUE? | EXEMPT? |
|--------------------|---|----------------|----------------|---------|
| CCZO 201           | Requires compliance with the Zoning Ordinance   | No             | No             | No      |
| CCZO 202           | Sets forth the Zoning Districts and Minimum Lot Sizes   | Yes            | Yes            | No      |
| CCZO 203-209       | General sections referring to the Zoning Map, amendments to the Zoning Map, boundaries of zones, building in hazard areas, condominiums, and redevelopment plans., requirement for dwellings to be reviewed in accordance with provisions in each district. | No             | No             | No      |

|                       |   |     |     |   |
|-----------------------|---|-----|-----|---|
| CCZO 210              | Restricts the partition or subdivision of land into parcels smaller than the parcel size established in the zoning district.  | Yes | Yes | No  |
| CCZO 213-18           | General setbacks, pending building permits, ingress and egress, unsafe building, and basement dwelling and building conversion provisions applicable to all zoning districts.   | No  | No  | Yes   |
| CCZO 219              | Prescribes timing of installation of screening if required by other provisions of the Zoning Ordinance  | No  | No  | No  |
| CCZO 501              | Provides that the purpose of the PF Zone is to retain forest land for forest use, and allows dwellings only under certain conditions  | No  | No  | No  |
| CCZO 502              | Sets forth the permitted uses in the PF zone  | No  | No  | No  |
| CCZO 503 and 504      | Conditional Uses and requirements for Conditional Uses in the PF zone   | No  | No  | No except for 504.4 and 504.6 which deals with health and safety. |
| CCZO 505.2            | Provision be made for fire safety measures consistent with NIFPG publication "Fire Safety Considerations for Development in Forest Areas"   | No  | No  | Yes   |
| CCZO 505.3            | Dwelling owner/occupant assume responsibility for wildlife damage.  | No  | No  | No  |
| CCZO 505.4            | Use does not impose limitation on operation of primary wood processing facility.  | No  | No  | No  |
| CCZO 505.5            | Forest management impact statement may be required showing relationship between the proposed residential use and surrounding resource uses, including setbacks for any dwellings from forest or farm uses to assure above conditions met. | No  | No  | No  |
| CCZO 506.1            | Minimum parcel size for new land divisions is 76 acres.   | Yes | Yes | No  |
| CCZO Remainder of 506 | Standards for parcel width, setbacks and height.  | No  | No  | No  |

|                          |   |    |    |     |
|--------------------------|---|----|----|-----|
| CCZO 508                 | Provides for replacement of non-forest use that are unintentionally destroyed | No | No | No  |
| CCZO 509                 | Relates to notification of state agencies for certain uses                    | No | No | No  |
| Comp. Plan               | Comprehensive Plan  | No | No | N/A |
| CCS&PO                   | Land Division Procedures and Standards  | No | No | Yes |
| Surface Mining Ordinance | Regulations governing surface mining  | No | No | Yes |

With respect to Claimants Loren and Gloria Ellis, 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 CCZO Sections, 202, 210 and 506.1.

Staff recommends the Board of County Commissioners deny the Claims as to Stephen and Karen Ellis.

## ATTACHMENT 2

Parcel 1: All that part of the East half of the Southeast quarter of Section 27, Township 5 North of Range 4 West, Willamette Meridian, Columbia County, Oregon, lying South of Nehalem Highway and North of the Nehalem River; excepting therefrom that part thereof conveyed by Albert L. Parker and Lizzie E. Parker, husband and wife, to Edwin Condit and Benita Condit, husband and wife, by deed recorded February 21, 1925 in Book 38, page 445, Deed Records, also excepting therefrom tract of land described as follows: Beginning at a point 10 rods North of the Southwest corner of the Southeast quarter of the Southeast quarter of Section 27; thence East 665 feet; thence North 536 feet; thence Southwest 850 feet to the place of beginning.

Parcel 2: All of the South half of the Southwest quarter of Section 26, Township 5 North of Range 4 West, of Willamette Meridian, Columbia County, Oregon, except that portion of the Southwest quarter of the Southwest quarter lying South of the Nehalem River; and also excepting that part of the Southeast quarter of the Southwest quarter conveyed to the Benson Logging and Lumbering Company by deed recorded June 26, 1909 in Book 11, page 381, Deed Records of said Columbia County, Oregon.

Parcel 3: All that part of the Northwest quarter of the Southwest quarter of Section 26, Township 5 North of Range 4 West, of Willamette Meridian, Columbia County, Oregon, lying Southeasterly of the Nehalem Highway.

Parcel 5: Commencing at the center of Section 26, Township 5 North, Range 4 West, Willamette Meridian, Columbia County, Oregon; thence West 80 rods; thence North 80 rods; thence Southeast to the place of beginning. Excepting therefrom that portion conveyed to Alvin A. Gray and Ethel Ray by Albert L. Parker and Lizzie E. Parker, in deed recorded May 15, 1922 in Book 33, Page 42, Deed Records.

Parcel 6: Northeast quarter of the Southwest quarter of Section 26, Township 5 North, Range 4 West, Willamette Meridian, Columbia County, Oregon.