

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 No. CL 07-38,)
Submitted by Robert Kessi) Order No. 53-2007
for Compensation Under Measure 37)

WHEREAS, on November 21, 2006, Columbia County received a claim for compensation under Measure 37 and Order No. 84-2004 from Robert Kessi (the "Claimant"), related to a parcel of property located on Elm Street, just west of the City of Scappoose, Oregon, having tax account number 3118-000-00502; and

WHEREAS, according to the information presented with the Claim, the Claimant acquired an interest in the property on June 29, 1969; and

WHEREAS, Barbara Kessi acquired an interest in the property on March 13, 1985; and

WHEREAS, the County zoned the property as Primary Agriculture (PA-38) in 1984; and

WHEREAS, pursuant to Columbia County Zoning Ordinance (CCZO), Sections 210 and 304.1, the minimum lot or parcel size for new land divisions in the PA-38 zone is 38 acres; and

WHEREAS, pursuant to CCZO Section 303.13(D), no non-resource related dwelling can be sited on land that is generally suitable for farm use; and

WHEREAS, the soils on the subject property are generally suitable for farm use; and

WHEREAS, the Claimant claims that CCZO Sections 210, 304.1 and 303.13(D) have restricted the use of the property and have reduced the value of the property by \$2,886,060; and

WHEREAS, the Claimant desires to subdivide the property into 1-2 acre parcels; 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 Claimant acquired the property; and

WHEREAS, in 1969, the Claimant could have subdivided the property into 1 to 2 acre lots;

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 07-38, dated March 23, 2007, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The County approves CL 07-38. In lieu of compensation, the County waives CCZO Sections 210, 304.1 and 303.13(D) to the extent necessary to allow the Claimant to subdivide the property into 1 to 2 acre minimum lot size parcels; and
3. 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 Claimant. If it is later determined that Claimant is 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, Claimant is 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 Claimant, Robert Kessi, does not run with the land, and is not transferable except as may otherwise be required by law.
 - E. By developing the parcels in reliance on this waiver, Claimant does so at his 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.

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 11th day of April, 2007.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: Sarah Hanson
Assistant County Counsel

By: Rita M. 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: March 23, 2007

FILE NUMBER(s): CL 07-38

CLAIMANT: Robert Kessi; 34172 SE Elm Street; Scappoose, OR 97056

PROPERTY LOCATION: Property addressed as 34172 Elm Street just west of the City of Scappoose

TAX ACCOUNT NUMBER: 3118-000-00502

ZONING: Primary Agriculture - 38 (PA-38)

SIZE: Approximately 23.57 acres

REQUEST: To divide property into lot/parcels ranging in size from 1 to 2 acres.

CLAIM RECEIVED: November 21, 2006

REVISED 180 DAY DEADLINE: May 20, 2007

RECEIPT OF CLAIM NOTICE: February 21, 2007
 As of the date of this Staff Report, no request for hearing has been received

I. BACKGROUND:

The subject property is developed with a single-family dwelling and other accessory buildings. The site has access from Elm Street, which abuts the northwest side of the parcel.

Claimant appears to have acquired the property in 1969. At that time the the size of the property owned by the Claimant was larger than the current approximate 23.57 acres. Since then that portion owned by the Claimant has been reduced.

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 Claimant, Robert Kessi and his wife, Barbara Kessi.
2. **Date of Acquisition:** The property was acquired by contract by the Claimant and William Kessi, James Kessi and Wilhelmina Kessi on July 29, 1969 by instrument recorded in Columbia County Records at Book 174, Page 126. The Contract was assigned by the Kessis to Willamette Production Credit Association on February 2, 1973 to secure financing. A warranty deed was issued to the Claimant and William Kessi, James Kessi and Wilhelmina Kessi in satisfaction of the sales contract on October 8, 1979. The property was conveyed to Claimant and Barbara Kessi in 1985. Staff finds that the acquisition date by the current owner/Claimant, Robert Kessi, under Measure 37 was on July 29, 1969. Staff finds that the acquisition date for Barbara Kessi is March 13, 1985.

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

The County did not have a Zoning Ordinance which applied to the subject property until August 29, 1973. The property was not subject to County zoning regulations when it was acquired by the Claimant in 1969. However, the property was subject to the County's 1963 Subdivision Ordinance.

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

The Claimant lists his intended use of the property as being division of the property and development of one to two acre parcels with single family dwellings and accessory structures on each lot. In Exhibit C to the Claim, Claimant lists several Zoning Ordinance, Subdivision and Partitioning Ordinance, and Comprehensive Plan provisions as restricting the use of the property and reducing its fair market value. Such provisions are addressed below:

Columbia County Zoning Ordinance

Article II- General Provisions

1. 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.
2. 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.
3. Section 211 applies to lots of record and is irrelevant according to the information provided with the Claim. Claimant has failed to establish how this provision restricts the use of his property.
4. Section 213 provides a building setback exception/modification. 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, or the exception/modification. Furthermore, setbacks are a matter of public safety and are therefore exempt from waiver under Measure 37.

Article III- Resource Districts, Sections 300-309

Section 300 sets forth the zoning regulations for PA-38 zoned property. However, with the exception of Section 304.1 imposing the 38 acre minimum lot size and Section 303.13D limiting non-farm dwellings to land unsuitable for agriculture, the regulations don't restrict the use of the property for non-farm resource residential development. Section 301 describes the general purpose of the PA-38 zone and does not restrict or prohibit the use of the property. Sections 302 and 303 describe the permitted and conditional uses in the PA-38 zone. With the exception of Section 303.13D limiting placement of a non-resource dwelling to land which is generally unsuitable for crops and livestock (Class VI and above soils), these provisions do not restrict or prohibit the proposed subdivision for single family dwellings because non-resource dwellings are allowed in the PA-38 zone as a conditional use and other types of dwellings are allowed as permitted uses. Section 303.13D, a criterion applied to non-resource dwelling review, restricts use in this case because the soils on the property are within agricultural capability Classes II and III which the County Comprehensive Plan describes as soils suitable for agriculture and therefore this criterion could not be met on the property. Staff concedes that this section restricts and prohibits use of the property. Otherwise, CCZO Sections 303, 304 and 305 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 304.1 prohibits a division of land in the PA-38 zone below 38 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 304, 305 and 309 cannot be met and thereby restrict the use of the property.

Article VI- Special Districts, Overlay Districts and Special Provisions.

1. Section 1401 requires offstreet parking and loading. The Claimant has provided no evidence that his desired use of the property would be inconsistent with the offstreet parking and loading requirements or that such provisions would restrict the use of the property and reduce its value. Staff finds that parking and loading space does not restrict the use of property or reduce its value. Furthermore, such provisions are related to health and safety and are therefore exempt from Measure 37 compensation or waiver.
2. Section 1402 requires a property owner to maintain off street parking and loading and does not restrict the use of the property or reduce its value. Furthermore, maintenance of parking and loading facilities is related to health and safety and are therefore exempt from Measure 37 compensation or waiver.
3. Section 1403 applies to how parking and loading facilities may be used. Claimant has provided no evidence that his desired use of the property would be inconsistent with parking and loading uses. Staff finds that such uses do not restrict the use of Claimant's property or reduce its value. Furthermore, parking and loading are related to health and safety and are therefore exempt from Measure 37 compensation or waiver.
4. Section 1405 requires an applicant for a building permit to submit a plot plan. Staff finds that submitting a plot plan does not restrict the use of property or reduce its value. Submitting a plot plan is merely a process, and compliance with that process in no way effects the value of property.
5. Section 1416 requires two parking spaces per dwelling unit for single family dwellings. Staff finds that the Claimant has provided no evidence that parking spaces would be inconsistent with his desired use of the property for residential development or that such parking spaces would restrict

the use of the property for residential development, or reduce its value. To the contrary, one would assume that a residence with parking would be worth more than a residence with no parking.

Article VII-Discretionary Permits

1. Section 1501 relates generally to the process for reviewing conditional use, and other permits. The Claimant fails to provide any evidence as to how this general reference to the process under 1600 restricts the use of the property and reduces its value.
2. Section 1503 sets forth 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.
3. Section 1504 sets forth the Variance process. The Claimant fails to provide any indication as to how the variance process might apply to his property much less how it would restrict the use of the property and reduce its value.
4. Section 1505 allows for temporary permits under certain circumstances. The Claimant fails to provide any indication as to why the temporary permit process possibly applies to his property much less how it would restrict the use of the property and reduce its value. One would assume that the Claimant would seek permanent residential uses on the property.

Article VIII-Administration

1. Section 1601 provides for a process of staff approval. Claimant fails to provide any indication as to how a staff approval process possibly applies to his property much less how it would restrict the use of the property and reduce its value.
2. Section 1607 requires that all amendments to the zoning ordinance text and map be consistent with the Comprehensive plan. The Claimant fails to provide any indication that he proposes a zone change of any kind, or how, during a zone change, compliance with the comprehensive plan would restrict the use of the property or reduce its value.
3. Section 1618 provides for a design review board, which may attach conditions to a design review application. The Claimant fails to provide any indication why he would need a design review application or how proceeding before a design review board would restrict the use of the property or reduce its value. The design review 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.

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

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 1969.

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.

Based on the above, staff understands that the County regulations that clearly prevent the Claimant from developing the property as desired are:

- | | |
|----------------|---|
| CCZO 303.13(D) | Restricts non-resource related dwellings to land generally unsuitable for farm use. Note: The soils on the subject property are entirely "agricultural soils" (i.e. Class I - IV soils) and therefore this non-farm single-family dwelling Conditional Use Permit criterion cannot be met for the intended use of the property. |
| CCZO 304.1 | Establishing the 38-acre minimum lot/parcel size in the PA-38 zone |

D. CLAIMANT'S ELIGIBILITY FOR FURTHER REVIEW

Claimant acquired an interest in the property before the PA-38 zoning designation was adopted. Therefore, the Claimant may be eligible for compensation and/or waiver of CCZO 303.13(D) & 304.1 under Measure 37.

E. STATEMENT AS TO HOW THE REGULATIONS RESTRICT USE

The Claimant cited a wide range of regulations but did not identify how each specific provision of County land use regulations restricted the proposed use by preventing the division of the property into

approximately 1 to 2 acre lots or parcels for single-family dwelling development. As such, Staff understands that the property cannot be divided and developed due to the 38-acre minimum lot size of the PA-38 zone. Further, as the soils on the subject property are entirely "agricultural soils" (i.e. Class I - IV soils) the Conditional Use Permit criterion that non-farm dwellings may be sited only on land generally unsuitable for farm use, cannot be met for the intended use of the property. Staff concedes that CCZO 303.13(D) and 304.1 can be read and applied to "restrict" the use of Claimant's property within the meaning of Measure 37.

F. EVIDENCE OF REDUCED FAIR MARKET VALUE

1. **Value of property as regulated:** Based on County Assessor data the property's real market value for the land itself is \$274,600.
2. **Value of property not subject to cited regulations:** Claimant submitted a market analysis indicating that properties similar to those proposed may have a sale value ranging from \$125,000 to \$180,000 per lot or parcel, but did not provide a specific value of the subject property if it could be redeveloped to a one to two acre density.
3. **Loss of value as indicated in the submitted documents:** The claim alleges a total reduction in value of \$2,886,060.

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 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 Form(s): \$2,886,060.

(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 303.13(D) and 304.1 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 Claimant(s) has/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) 303.13(D) and 304.1 .

(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 PA-38 zone and the Conditional Use Permit criterion that non-farm dwellings may be sited only on land generally unsuitable for farm use, which were enacted prior to the effective date of Measure 37 on December 2, 2004. The subject claim was filed on November 21, 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 Claimant(s) has/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 Claimant 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. The regulations identified in this table have been found to apply to this Measure 37 claim.

LAND USE CRITERION	DESCRIPTION	RESTRICTS USE?	REDUCES VALUE?	EXEMPT?
CCZO 209	Requires that all requests for dwellings on resource land shall be reviewed in accordance with the provisions established 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 211	Requirements for lots of record.	No	No	No
CCZO 213	Provides a building setback exception/modification	No	No	No
CCZO 301	Describes the general purpose of the PA-38 zone	No	No	No
CCZO 302	Permitted and conditional uses in the PA-38 zone.	No	No	No
CCZO 303.13 (D)	Restricts non-resource related dwellings to land generally unsuitable for farm use	Yes	Yes	No
CCZO Remainder of 303	Conditional uses and standards for review for non-farm uses in PA-38 zone	No	No	No
CCZO 304.1	Establishes a minimum lot size in th PA-38 zone of 38 acres.	Yes	Yes	No
CCZO Remainder of 304, 305 & 309	Standards for PA-38 uses; Standards for partitions; Standards for land divisions for farm parcels.	No	No	No
CCZO 1400 thru 1416	Special Districts, Overlay Districts and Special Provisions.	No	No	Yes. 1401, 1402, 1403, 1416
CCZO 1500 -1550	Discretionary Permit Requirements	No	No	No
CCZO 1601, 1607, 1618	Discretionary Permit Requirements	No	No	No

CCS&PO	Land Division Procedures and Standards	No	No	Most Provisions: Yes
Comp. Plan	Comprehensive Plan	No	No	N/A

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 Section(s) 210, 303.13(D) & 304.1.

BARGAIN AND SALE DEED

BOOK 256 PAGE 120

KNOW ALL MEN BY THESE PRESENTS, That Robert G. Kessi and James E. Kessi, hereinafter called grantor, and Barbara A. Kessi, husband and wife hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Columbia State of Oregon, described as follows, to-wit:

Beginning at a point South 20°06' West 497.75 feet and South 64°14' East 946.00 feet and South 20°06' West 1096.30 feet and South 64°13'30" East 610.00 feet from the West quarter corner of Section 7, Township 3 North, Range 1 West, Willamette Meridian, Columbia County, Oregon, and running thence South 18°05' West 634.00 feet; thence South 23°30' West 465.78 feet; thence South 0°43' West 148.74 feet; thence South 41°24' West 112.0 feet; thence South 26°00' West 96.70 feet; thence South 74°46' West 103.80 feet; thence South 23°13' West 106.70 feet to Northerly line of Jesse Miles Donation Land Claim; thence South 70°04' East along said Northerly line of Jesse Miles Donation Land Claim 747.54 feet; thence North 20°06' East 1540.56 feet to the Southerly right of way line of a 40 foot road and thence North 64°13'30" West along said 40 foot road 654.78 feet being point of beginning.

Recorded By 5-64651 Floor Title Insurance

The grantor's signature was acknowledged before

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ -0-

However, the actual consideration consists of or includes other property or value given or promised which is the whole part of the consideration (indicate which).

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 13th day of March, 19 85 if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

THIS INSTRUMENT DOES NOT GUARANTEE THAT ANY PARTICULAR USE MAY BE MADE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT. A BUYER SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Signatures of Wilhelmina G. Kessi, William A. Kessi, Robert G. Kessi, and James E. Kessi.

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

(ORS 194.570)

STATE OF OREGON, County of Columbia) ss.

STATE OF OREGON, County of Columbia) ss.

The foregoing instrument was acknowledged before me this March 13, 19 85 by

The foregoing instrument was acknowledged before me this 19, by

Robert G. Kessi and William A. Kessi

president, and by secretary of

Notary Public for Oregon My commission expires: Aug 14, 1988

Notary Public for Oregon My commission expires:

STATE OF WASHINGTON, Washington) ss. County of King

FORM NO. 25 - ACKNOWLEDGMENT STEVENS, HESS LAW FIRM, PORTLAND, ORE.

BE IT REMEMBERED, That on this 24th day of January, 19 85 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named James E. Kessi

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily.

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

Notary Public for Oregon Washington My Commission expires 1980