

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the ApplicationS of the            )  
Fred Luttrell Trust for 5 Conditional Use        )  
Permits for Non-Resource Dwellings in the    )        FINAL ORDER NO. 120-2007  
Primary Agriculture (PA-38) Zone                )

WHEREAS, on April 26, 2007, Fred Luttrell, Trustee of the Fred Luttrell Trust, applied for five Conditional Use Permits to site 5 non-resource related dwellings, one on each of four 2 acre lots and one on a 25 acre lot off of Fred's Row Lane and Robinette Road in Yankton, Oregon, having tax account numbers 5236-030-00203, 5236-030-00100 and 5236-000-00200; and

WHEREAS, the Applications were deemed complete on May 11, 2007; and

WHEREAS, on April 25, 2007, the Board of County Commissioners asserted original jurisdiction over the Applications and scheduled a hearing on the matter before the Board of County Commissioners during a Special Hearing on June 13, 2007; and

WHEREAS, on June 13, 2007, the Board held a Special Public Hearing on all five Applications; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing, deliberated on the matter and voted to tentatively approve the Applications subject to several conditions of approval;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners, dated June 5, 2007, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The Applications for five Conditional Use Permits to site five non-resource related dwellings under CU 07-27 and CU 07-29, are APPROVED subject to the following conditions of approval:
  - A. These permits shall become void 2 years from the date of the final decision if development has not begun on the property. Extensions of time may be granted by the Planning Director if requested in writing before the expiration date and if the Applicant was not responsible for the failure to develop.
  - B. The Applicant shall consult with the County Tax Assessor's office and remove the five subject properties from the farm deferral program according to the provisions of



E. **THESE CONDITIONAL USE PERMITS ARE SUBJECT TO THE TERMS AND CONDITIONS OF A MEASURE 37 WAIVER, ORDER NO. 41-2006, AS AMENDED. THE WAIVER IS PERSONAL TO FRED LUTTRELL, AS AN INDIVIDUAL, DOES NOT RUN WITH THE LAND, AND IS NOT TRANSFERABLE EXCEPT AS REQUIRED BY LAW. THE COUNTY MAKES NO REPRESENTATIONS ABOUT THE LEGAL EFFECT OF THE WAIVER ON THE SALE OF LOTS RESULTING FROM ANY LAND DIVISION, ON THE RIGHTS OF FUTURE LAND OWNERS TO BUILD OR OTHERWISE, OR ON ANY OTHER PERSON OR PROPERTY OF ANY SORT.**

Dated this 27<sup>th</sup> day of June, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: Rita M. Bernhard  
Rita Bernhard, Chair

By: [Signature]  
Anthony Hyde, Commissioner

Approved as to form

By: Suzanne Hanson  
Office of the County Counsel

By: [Signature]  
Joe Corsiglia, Commissioner

ATTACHMENT 1

COLUMBIA COUNTY BOARD OF COMMISSIONERS

STAFF REPORT - PA-38 ZONE

June 5, 2007

Conditional Use Permit Non-Farm Dwellings

**FILE NUMBER:** CU 07-27 & CU 07-29

**APPLICANT/  
OWNER:** Fred Luttrell Trust  
61160 Skeet Avenue  
St. Helens, Oregon 97251

**LOCATION:** Four 2-acre parcels are accessed by Fred's Row Lane off Pittsburg Road and one 25-acre parcel is accessed off Robinette Road

**REQUEST:** Conditional Use Permits to place non-farm single family dwellings on five undersized parcels created by recorded Partition Plats 2006-37, 38 and 39 pursuant to waivers of PA-38 minimum lot size and partitioning criteria necessary to allow division of one to two acre parcels pursuant to County Measure 37 Claim Nos. CL 05-20, CL 05-21 and CL 05-22 and State Measure 37 Claim # M1 18688.

**TAX ACCOUNT/MAP  
ID NUMBERS:** 5236-030-00203 - 2-acre Parcels 1 & 2 of PP 2006-38  
5236-030-00100 - 2-acre Parcels 1 & 2 of PP 2006-37  
5236-000-00200 - 25-acre Parcel 1 of PP 2006-39

**ZONING:** Primary Agriculture (PA-38)

**DATE APPLICATION COMPLETE:** May 11, 2007  
**150 DAY DECISION DEADLINE:** September 23, 2007

**REVIEW CRITERIA:**

**COLUMBIA COUNTY ZONING ORDINANCE**

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## **BACKGROUND:**

Pursuant to the Zoning Ordinance Section 1612 Special Hearings provision, the Board of Commissioner's has taken jurisdiction for the review and decision on these conditional use permits.

The applicant, the Fred Luttrell Trust, requests approval to place a "Dwelling Not in Conjunction with Farm Use" on four 2-acre parcels and one 25-acre parcel all of which are zoned Primary Agriculture (PA-38), an exclusive farm use zone. The four 2-acre properties are accessed from Fred's Row Lane, a publically dedicated and improved 50' right-of-way off of Pittsburg Road. The parcels have been approved for onsite septic systems, and are served by the McNulty Water Association. Although the 25-acre parcel does not have a proven water supply nor has it received approval for a sewage disposal system, it has 50 feet of usable frontage on Robinette Road that serves as its access.

Prior to the issuance of building permits on the 25-acre parcel, described as Parcel 1 of PP 2006-39, the County Sanitarian must approve an onsite sewage disposal system, the applicant must submit written documentation confirming the availability of an approved water supply, and the access to Robinette Road shall be improved to fire apparatus access standards pursuant to provisions of the County Road Standards Ordinance. Although none of these parcels are within an urban growth area, they are served by the Columbia County Sheriff and Columbia River Fire & Rescue.

These 5 undersized parcels were created through Partition Plat No's 2006- 37, 38 & 39 based on a waiver of PA-38's minimum lot size requirements of Sections 304.1 of the Columbia County Zoning Ordinance (CCZO) in response to County Measure 37 Claim #'s CL 05 -21, 22 & 23. State Claim # M1 18688. The State Claim further, waived the "applicable provisions (related to development and land uses on exclusive farm uses) of the State of Oregon's Planning Goal 3, ORS 215, and OAR 660, Division 33, enacted or adopted after November 6, 1964".

On May 17, 2006 the Board of County Commissioners issued Order No. 41-2006 in the matter of the applicant's Measure 37 Claims, CL 05 -19, CL 05-20, CL 05- 21 and CL 05-22 that waived provisions of Columbia County Zoning Ordinance Sections 210, 300, 302, 303, 304.1, 305.2 and 309 to the extent necessary to allow the Claimant to divide the subject properties into one to two acre parcels for residential homesites. Then on May 24, 2007 the Board tentatively approved and amendment to Order No. 41-2006 revoking their previous waiver of CCZO Sections 300, 302, 303, 305.2 and 309. 1503. Because these 5 properties have already been platted and recorded pursuant Board Order 41-2006 granting Measure 37 waivers and , this Report will not address the partition criteria contained in CCZO Sections 305.2 and 309.

According to the FIRM Map Panel #'s 325 and 435 none of these properties are located in any floodplain. The National Wetlands Inventory Maps of the Trenholm, Chapman, and Deer Island areas as well as the Oregon Department of Forestry's Stream Classification Maps of Deer Island indicate there is an unnamed creek along the southern boundary of the 25-acre parcel. Future

development of this property must protect this creek's Riparian Area and be consistent with CCZO Section 1170 The St. Helens - Columbia City CPAC Area Beak Maps also indicate that only the 50' wide 'flagpole' portion of the 25-acre parcel is designated as a Peripheral Big Game Habitat Area.

The remainder of this Report will address the extent to which these five proposed new non-farm use single-family dwellings on newly partitioned and undersized PA-38 parcels comply with the provisions of CCZO Sections 300, 303, and 1503.

**REVIEW CRITERIA & FINDINGS:**

**Columbia County Soil Survey:**

The Soil Survey of Columbia County, Oregon indicates soils on these 5 parcels consist of the following types, estimated percentage of parcel and agricultural capability class. All parcels contain either Class III or IV soils which are all well suited for the cultivation and production of food and fiber:

Parcel #	Soil Type	Est. % Of Area	Agricultural Capability Class
1 & 2 PP 2006-38	14C - Cornelius silt loam 8 - 15% slopes	100%	IIIe
# 1 of PP 2006-37	14D - Cornelius silt loam 15 - 30% slopes	60%	IVe
	14C - Cornelius silt loam 8 - 15% slopes	40%	IIIe
#2 of PP 2006-37	14C - Cornelius silt loam 8 - 15% slopes	100%	IIIe
# 1 PP of 2006-39	10B - Cascade silt loam 3 - 8% slopes	see note below <sup>1</sup>	IIIw
	10C - Cascade silt loam		IIIe

<sup>1</sup>These are the soils at the 25-acre parcel's proposed building site in the NE portion, approximately 1500' West of Robinette Road. Soils elsewhere on this parcel include 14C & 14D - Cornelius silt loam and Wapato silt loam which are designated as Class III & IV.

8 15% slopes

Beginning with Columbia County Zoning Ordinance, Section 300:

**Section 300 PRIMARY AGRICULTURE - 38**

**PA-38**

301 Purpose: This district is intended to preserve, enhance, and stabilize those prime agricultural lands and farm use areas within the County which are being used, and offer the greatest potential, for food and fiber production.

303 Conditional Uses:

.13 Single-family dwellings or mobile homes and their accessory uses, not provided in conjunction with farm use, may be granted conditional approval upon a finding that each such proposed use:

A. Is compatible with farm uses and is consistent with the intent and purpose set forth in this ordinance relating to farm lands; and

**Discussion:** These properties have been zoned PA-38 since 1984 and after the applicant first acquired interest in these properties in 1964, 1966 and 1967. Mr. Luttrell has owned and operated large farms in the St. Helens area for many years but has ceased farming operation over the past 16 years. All 5 properties' soils' characteristics, shown on Page 3, demonstrate all soils within these 5 properties contain Class III and IV soils which are well suited for the cultivation and production of food and fiber.

Although non-farm use single family dwellings in exclusive farm zones may not be incompatible with adjacent properties' farm uses, these 5 residential sized parcels were approved based on the applicant's successful Measure 37 Claims that waived the County Zoning Ordinance PA-38 Zone minimum lot size and partitioning requirements necessary to allow the creation of one to two-acre parcels intended for residential homesites on these lands designated for exclusive farm uses. Consequently, the applicant's Measure 37 Claims which approved the creation of small acreage residential homesites on PA-38 zoned land are inherently inconsistent with the intent and purpose of the PA-38 Zone. One to two-acre residential properties do not preserve, enhance, and stabilize our county's prime agricultural and exclusive farm use lands and areas.

**Finding 1:** Staff finds that because the applicant's approved Measure 37 Claims waived the PA-

38 Zone's minimum lot size requirement and allowed the partitioning these exclusive farm use parcels, the County needs to also waive this criterion, 303.13(A), because it cannot be met and will, in turn, essentially prohibit the applicant from developing these parcels for their intended uses. Staff finds that the Board can approve these proposed 5 conditional use permits provided they have a condition that also waives Section 303.13(A)'s siting criterion. This waiver will allow the applicant to use these newly created parcels for their intended purposes stated in his Measure 37 Claims.

Continuing with the Columbia County Zoning Ordinance (CCZO); Section 303.13:

- B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use; and
- C. Does not materially alter the stability of the overall land use pattern of the area; and

**Discussion:** These 5 subject properties are surrounded on all sides by properties zoned for Forestry-Agriculture (FA-19), PA-38, or Primary Forest (PF-76) resource uses and developed with single-family dwellings. Land Development Services' and the County Assessors' records indicate that within the approximately 582 acres of Section 36 in which the subject parcels are located at least 30 other existing residences, averaging 1 residence for every approximately 19.4 acres. Only 18-acres, located in Section 36's Northwestern corner, are zoned Rural Residential (RR-5). Within Section 36, the Community Service - Institutional (CS-I) Zone includes the 13.41-acres of the Yankton School properties and the 5.75-acres of the Yankton Community Church and its cemetery. Staff does not foresee significant impacts resulting from these five proposed additional non-farm use single family residences that will alter the stability of the overall land use pattern of this area of our county.

One condition of final approval will be to require the property owners to sign and record a waiver of remonstrance against farm and forest practices on adjacent properties in order to further protect accepted farms practices occurring on adjacent exclusive farm use lands. If the Board approves these 5 additional non-farm use dwellings, these residences do not appear to seriously interfere with the activities normally associated with the other approximate 30 single-family dwellings located on other resource and residential lands within Section 36.

**Finding 2:** Staff finds that these proposed 5 additional non farm related single family dwellings will be able to comply with the first criterion by requiring signed and recorded waiver of remonstrances prior to final conditional use permit approval. Staff also finds these 5 additional non farm related single family dwellings already comply with the second criterion in that they will not materially alter the overall land use pattern in this unincorporated area of our county.

Continuing with the Columbia County Zoning Ordinance (CCZO); Section 303.13:

- D. Is situated upon generally unsuitable land for the production of farms crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

**Discussion:** According to the Soil Survey of Columbia County, Oregon demonstrated in Pages 3 and 4 of this Report, the soils in their entirety on all five proposed residential homesites are classified with agricultural capabilities of Class III and IV, classifications that are well suited for the cultivation and production of food and fiber. The terrain on all five parcels are relatively flat and do not contain any other physical constraints related to drainage, flooding or vegetation that will not allow each parcel to safely and adequately support their anticipated farm use. Due to their size however, these 5 parcels are not well suited for the production of farm crops and livestock, and cannot fully satisfy this conditional use permit siting criterion. Although the applicant's Measure 37 Claims' waiver of the PA-38 minimum lot size and partitioning provisions allowed the applicant to partition his agricultural land into residential sized parcels, none of these parcels can meet this siting criterion and, are all situated upon suitable land for farm production.

**Finding 3:** Staff finds that because the applicant's approved Measure 37 Claims waived the PA-38 Zone's minimum lot size requirement and partitioning requirements and allowed the partitioning of 2 acre parcels, the intended residential development of these exclusive farm use parcels cannot be met by this conditional use criterion. Section 303.13(D) cannot be met and will, in turn, prohibit the applicant from developing these parcels for the Claimant's intended uses. Staff finds that the Board can approve these proposed 5 conditional use permits only if approval is conditioned on amendment of the current Measure 37 waiver for the property to additionally waive Section 303.13(D).

Continuing with the Columbia County Zoning Ordinance (CCZO); Section 303.13:

- E. Any application for a non-farm dwelling in an exclusive farm use zone shall be approved only if the parcel on which the dwelling is to be built has been removed from the farm tax deferral in accordance with the provisions of ORS 215.236.

**Discussion & Finding 4:** State law prohibits the county from granting final approval for proposed non-farm dwellings in exclusive farm zones until the affected properties have been removed from farm tax deferral. Consequently, Staff recommends this condition of final approval: the 5 subject properties must first be removed from farm tax deferral.

Following with CCZO Section 306:

### 306 Special Notification Requirements:

- .1 The County Agricultural Extension office and the Soil and Water Conservation Service shall be notified of all requests made under Section 303 and 305 of this chapter. These two agencies will be given 10 working days to comment on such requests.

**Discussion & Finding 5:** The Soil and Water Conservation District and Oregon State University Extension Office were both notified of these conditional use permits in May 18, 2007. As of the date of this Report, Land Development Services has yet to hear from these agencies. Staff finds this criterion has been met.

Following with CCZO, Section 1503:

- .5 **Granting a Permit:** The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:

- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;

**Finding 6:** Pursuant to the Special Hearings provision of the Zoning Ordinance's Section 1612 these conditional use permits will be heard by the Board of County Commissioners instead of the Planning Commission. Section 303.13 lists "Single family dwelling or mobile homes and their accessory uses, not provided in conjunction with farm use, ..." may be granted conditional approval upon a finding that each such proposed use meets specified provisions. These provisions have already been discussed during Findings 1 through 4 of this Report. Because conditions have been imposed which would allow the applicant to meet criteria in 303.13, Staff finds these 5 conditional use permits comply with this criterion of Section 1503.5(A).

Continuing with CCZO, Section 1503.5:

- B. The use meets the specific criteria established in the underlying zone;

**Discussion:** Specific criteria for the proposed residential development of these 5 PA-38 zoned properties are found in 303.13 A, B, C, D, & E and Section 304.1 through 7 of the CCZO. County Claim #'s CL 05-20, CL 05-21 and CL 05-22 have already waived the provision of Section 304.1 related to minimum lot sizes for these newly partitioned PA-38 properties. Other applicable provisions listed in Section 304.2 - 7 require newly partitioned PA-38 properties to have:

1. Minimum average parcel widths and depths of 100 feet,
2. Minimum of 50 foot frontage on a public or private right-of-way,
3. Minimum 40 foot front, side and rear yard setbacks, and
4. Structural height restrictions of 50 feet or 2 ½ stories, whichever is less.

Staff confirmed all parcels complied with these dimensional and access requirements. Prior to the issuance of any building permits, the proposed non farm use single family dwellings will also be required to comply with all yard setbacks and height restrictions.

**Finding 7 :** Staff finds that the 5 newly partitioned PA-38 zoned parcels have sufficient width, depth, area, and road frontage to satisfy these site specific development criteria. Staff finds this criterion can be met with requirements related to setbacks and structural height limitations prior to the issuance of any building permits.

Continuing with CCZO, Section 1503.5:

- C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;

**Discussion:** As discussed previously in Findings 1, 2, 6, & 7 of this Report, the applicant's Measure 37 Claims allowed the applicant to partition these undersized PA-38 parcels specifically for residential homesites. Prior to Final Partition Plat approval, LDS staff's review ensured all proposed parcels would comply with the dimensional, acreage, and road frontage provisions for these 5 parcels. For the four 2-acre parcels, the applicant needed to build and dedicate a new public right-of-way, Fred's Row Lane, in addition to providing written documentation verifying the adequacy of the McNulty Water Association to serve these 4 parcels as well as the adequacy of onsite sewage disposal systems.

The 25-acre parcel also has adequate dimensional requirements for minimum yard setbacks as well as the required 50' of usable road frontage on Robinette Road. Although this portion of this property includes an approved Private Road, Luttrell Farms Drive, the Columbia County Road Standards Ordinance defines and allows private roads "to serve up to six parcels provided they meet fire apparatus access road standards and have maintenance agreements and easements." The applicant has submitted a lot evaluation application to LDS to determine its method of sewage disposal. Finally, this 25-acre parcel has sufficient acreage that will allow future development to comply with all yard setbacks as well as setbacks from the unnamed creek traversing along its southern boundary needed to help protect its riparian corridor, water quality, wetlands, and fish and wildlife habitat within its 50' wide Riparian Area.

Consequently, LDS would not have approved the applicant's 3 Partition Plats unless all undersized PA-38 parcels' physical characteristics and natural features were suitable for their intended use stated in the applicant's Measure 37 Claims.

**Finding 8 :** Staff finds that the characteristics of the four 2-acre parcels' and the 25-acre parcel's proposed home sites are suitable for these proposed non-farm single family dwellings. These site specific development criteria can be met with requirements related to setbacks from property lines and Riparian Areas prior to the issuance of building permits.

Continuing with CCZO, Section 1503.5:

- D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

**Discussion:** As discussed in previous portions of this Report and prior to the issuance of any building permits, the access to all 5 of these properties shall comply with applicable County Road Standards, will have approved methods of sewage disposal systems, and provide written documentation of an adequate water supply. Because utilities can be extended to the proposed building sites along the existing dedicated right-of-ways along Fred's Row Lane, Robinette Road, and Pittsburg Road these 5 proposed single family dwellings will not require any additional access or utility easements.

**Finding 9:** Staff finds the 5 undersized parcels comply with this criterion because the existing transportation system, public facilities and services available to them are adequate for these proposed five additional non farm related single family dwellings.

Continuing with CCZO, Section 1503.5:

- E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;

**Discussion:** As discussed previously in Findings 2, 7, 8, & 9 of this Report, this unincorporated area in Section 36, Township 5 North, Range 2 West already contains 30 existing residences on other similarly sized properties, averaging 1 residence for every 19.4 acres. Consequently, these proposed five additional non-farm use single family dwellings will not alter the character of or land uses on the surrounding resource lands already containing single family dwellings.

**Finding 10:** Staff finds these 5 proposed single family dwellings have met this criterion.

Continuing with CCZO, Section 1503.5:

- F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;

**Discussion:** Section 300 of the Zoning Ordinance specifies how Primary Agriculture (PA-38) zoned land can be developed which, in turn, implements the County Comprehensive Plan's Agricultural Land Goals and Policies. By waiving the siting criteria in Section 303.13 (A) & (D) for these 5 conditionally permitted non-farm use single family residences, as discussed during Findings 1 & 3 on Pages 5 - 6, the Board allows the applicant to use these properties for residential development as stated in his approved Measure 37 Claims. These parcels were allowed to be created through approved Measure 37 Claims, where the State of Oregon waived the applicable provisions related to development and land uses on exclusive farm uses, and Columbia County also waived PA-38 district minimum lot size requirements.

**Finding 9:** Staff finds that the goals and policies are implemented through the PA-38 zoning district regulations and that the applicant's Measure 37 Claims' waiver of PA-38 Zone's minimum lot size, in essence, is also a waiver from this siting criterion requiring compliance with the Goals and Policies of the County Comprehensive Plan.

Continuing with CCZO, Section 1503.5:

**G. The proposal will not create any hazardous conditions.**

**Discussion:** As mentioned previously in this Report, surrounding properties within Section 36 consist of 30 other existing residences on similarly zoned PA-38, FA-19, or PF-76 resource properties. Additionally, the four 2-acre parcels and their proposed non-farm use single family dwellings have already been approved for onsite sewage disposal systems, being served by the McNulty Water Association, and have access to a publically dedicated Fred's Row Lane . Prior to issuing any building permits on the other 25-acre parcel, the applicant will need to demonstrate both an approved method of sewage disposal and an adequate potable water supply, as well as demonstrate its access will meet County Road Department's fire apparatus access standards. Staff does not foresee any hazardous conditions resulting from these conditionally permitted five additional single family dwellings in this unincorporated area of our county.

**Finding 10:** Staff finds that these proposed 5 non-farm use single family dwellings do not appear to result in any hazardous conditions if a condition is imposed that the 25-acres of PP 2006-39 be approved for a septic system prior to issuance of a building permit. The application complies with this criterion.

**COMMENTS RECEIVED:**

Notice of these Conditional Use Permits were sent to surrounding property owners and Government Agencies May 18, 2007. As of the date of this Report, June 5, 2007, Land Development Services has not received any comments.

**CONCLUSION AND RECOMMENDATION:**

Lot sizes have been waived pursuant to Measure 37 and parcels created that are not adequately sized for farm use. In order to site dwellings on these parcels, they must be located on non-farm soils as per Findings 1 and 3 in this Report. There are no non-farm soils on these parcels. Therefore, Staff recommends that the prior Measure 37 waiver decision be amended to additionally waive CCZO Sections 303.13 (A) and 303.13 (D) pursuant to Claim Nos. CL 05-19, 20, 21, & 22.

Based on the above findings, Staff recommends **APPROVAL** of these 5 Conditional Use Permits (CU 07 27 & 29) to site non-farm single family dwellings on Parcels 1 & 2 of PP 2006-38 (Map ID # 5236-030-00203), Parcels 1 & 2 of PP 2206-37 (Map ID # 5236-030-00100), and Parcel 1 of PP 2006-39 (Map ID # 5236-000-00200) in the PA-38 zone with the following conditions:

**Conditions of Approval:**

1. The Board amend the prior Measure 37 decision for the subject properties to additionally waive CCZO Sections 303.13 (A) and 303.13 (D).
- 2.. These permits shall become void 2 years from the date of the final decision if development has not begun on the property. Extensions of time may be granted by the Planning Director if requested in writing before the expiration date and if the applicant was not responsible for the failure to develop.
3. The applicant shall consult with the County Tax Assessor's office and remove the five subject properties from the farm deferral program according to the provisions of ORS 215.236.
4. The owner shall sign a "Waiver of Remonstrance" regarding current and accepted farm and forest management practices on adjacent properties devoted to agricultural use. This document, obtained from the Department of Land Development Services and recorded with the County Clerk's office, shall run with the land and be binding upon all 5 (five) property heirs and assigns.
5. The following shall be completed prior to the issuance of any Building Permits
  - a. A Road Access Permit shall be obtained from the County Road Department for all five properties.
  - b. The applicant shall provide written documentation that the access to the residence on the 25-acre property, Parcel 1 of PP 2006-39 meets fire apparatus access standards.
  - c. The applicant shall provide documentation indicating that adequate

potable water is available to the 25-acre Parcel 1 of PP 2006- 39 If a well is proposed to serve the property, and it is not exempt from the permitting requirements of ORS 537-545, a well contractor's report shall be submitted following the completion of the well.

- d. The applicant shall provide documentation of an adequate method of sewage disposal for the 25-acre Parcel 1 of PP 2006 - 39.

Attachments:    Application  
                      State Claim  
                      County Claims  
                      Board Order 41-2006, 90-2007  
                      Vicinity, Soils, Zoning, Address Maps  
                      Partition Plat Maps of PP 2006 - 37, 38 & 39

cc: County Counsel