

WHEREAS, Merlin Howard Purkerson request either \$100,000 as compensation for the reduction in value of the property, or waiver of all land use regulations that would prevent the division of the land into lots that contain less than 80 acres and placement of a dwelling on each lot, uses that could have otherwise been allowed at the time he acquired an interest in the property; and

WHEREAS, the Board finds that under LC 2.760(3) the public interest would be better served by modifying, removing or not applying the challenged land use regulations of the F1 zone to the subject property in the manner and for the reasons stated in the report and recommendation of the County Administrator incorporated here by this reference except as explicitly revised here to reflect Board deliberation and action to allow Merlin Howard Purkerson to make application for development of the subject property in a manner similar to what he could have been able to do under the regulations in effect when he acquired an interest in the property on August 27, 1970; and

WHEREAS, this matter having been fully considered by the Lane County Board of Commissioners.

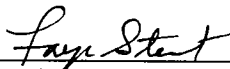
NOW, THEREFORE IT IS HEREBY ORDERED that the applicant Merlin Howard Purkerson made a valid claim under Ballot Measure 37 by describing the use being sought, identifying the county land use regulations prohibiting that use, submitting evidence that those land use regulations have the effect of reducing the value of the property, showing evidence that he acquired the property before the restrictive county land use regulations were enacted or enforced and the Board hereby elects not to pay just compensation but in lieu of payment, the request of Merlin Howard Purkerson shall be granted and the restrictive provisions of LC 16.210 that prevent the division of the land into lots containing less than 80 acres and placement of a dwelling on each lot in the F1 (Non-Impacted Forest) Zone shall not apply to Merlin Howard Purkerson, so that he can make application for approval to develop the property described in the records of the Lane County Assessor as map 18-05-30 tax lot 201, in a manner consistent with the land use regulations in effect when he acquired the property on August 27, 1970.

IT IS HEREBY FURTHER ORDERED that Merlin Howard Purkerson still will need to make application and receive approval for a division of the property and placement of a dwelling under the other land use regulations applicable to dividing the land and placing a dwelling that were not specifically identified or established by Merlin Howard Purkerson as restricting the division of the land and placement of a dwelling, and it would be premature to not apply those regulations given the available evidence. To the extent necessary to effectuate the Board action to not apply the dwelling or division restrictions of the applicable zone described above, the claimant shall submit appropriate applications for review and approval of a new dwelling to show the specific development proposals and in the event additional county land use regulations result in a restriction of those uses that have the effect of reducing the fair market value of the property, the County Administrator shall have the authority to determine those restrictive county land use regulations that will not apply to that development proposal to preclude entitlement to just compensation under Measure 37, and return to the Board for action, if necessary. All other Lane Code land use and development regulations shall remain applicable to the subject property until such time as he are shown to be restrictive and that those restrictions reduce the fair market value of the subject property.

IT IS HEREBY FURTHER ORDERED that this action making certain Lane Code provisions inapplicable to use of the property by Merlin Howard Purkerson does not constitute a waiver or modification of state land use regulations and does not authorize immediate construction of a dwelling. The requirements of state law may contain specific standards regulating development of the subject property and the applicants should contact the Department of Administrative Services (DAS - State Services Division, Risk Management - Measure 37 Unit, 1280 Ferry Street SE, U160, Salem, OR 97301-4292; Telephone: (503) 373-7475; website address: <http://www.oregon.gov/DAS/Risk/M37.shtml>) and have the State of Oregon evaluate a Measure 37 claim and provide evidence of final state action before seeking county land use approval.

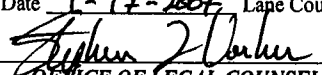
IT IS HEREBY FURTHER ORDERED that the other county land use regulations and rules that still apply to the property require that land use, sanitation and building permits be approved by Lane County before any development can proceed. Notice of this decision shall be recorded in the county deed records. This order shall be effective and in effect as described in LC 2.770 and Ballot Measure 37 to the extent permitted by law. This order does not resolve several questions about the effect and application of Measure 37, including the question of whether the right of applicants to divide or build dwellings can be transferred to another owner. If the ruling of the Marion County Circuit Court in *MacPherson v. Dept. of Administrative Services*, (Marion County Circ. Ct. Case No. 00C15769, October 14, 2005) or any other court decision involving Ballot Measure 37 becomes final and that decision or any subsequent court decision has application to Lane County in a manner that affects the authority of this Board to grant relief under Ballot Measure 37 and LC 2.700 through 2.770 then the validity and effectiveness of this Order shall be governed by LC 2.770 and the ruling of the court.

DATED this 23rd day of January, 2007.



Faye Stewart, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date 1-17-2007 Lane County


OFFICE OF LEGAL COUNSEL