



Community Development
Planning Division
501 SW Madison Avenue
P.O. Box 1083
Corvallis, OR 97339-1083
(541) 766-6908
FAX (541) 754-1792

May 2, 2007

Greg Verret
Benton County Community Development Department
360 SW Avery
Corvallis, OR 97333-1192

Corvallis Planning Division comments on the McFadden Measure 37 Claim on Industrial Land (M37-07-099)

Dear Greg,

Thank you for the opportunity to comment on the Measure 37 claim filed by Mr. McFadden (File #M37-07-099). As you know, the subject property (Assessor's Map 11-05-28, Tax Lot 1308), is located within the Urban Growth Boundary of the City of Corvallis, but is not within the current City Limits. The subject property comprises approximately 86 acres of land. It is our understanding that the Board of County Commissioners will hold a public hearing to consider this claim on May 8, 2007, and we are submitting comments consistent with our urban fringe management agreement. We ask that the Commissioners consider the following issues in making their decision on this Measure 37 claim:

1. The language of Measure 37 (ORS 197.352) states that if a public entity enacts or enforces a new land use regulation that restricts the use of private real property or any interest therein, the owner is entitled to just compensation. In the case of the subject Measure 37 claim, it is our understanding that the permitted and conditional uses and minimum lot size are the biggest issues for the applicant. The applicant desires to develop a mixed use development and the residential and commercial aspects are not allowed in the current industrial zone. However, we concur with your staff assessment that the intensive level of development desired by the applicant is unrealistic, since the applicant would not be able to utilize City utility infrastructure such as sanitary sewer and water. We also concur with your staff-recommended conditions, to ensure that if the County waives regulations pertaining to uses and minimum lot size, the County maintains requirements to comply with regulations related to public health and safety.
2. The natural features regulations at issue are designed to protect riparian corridors, wetlands, and floodplains. The enactment or enforcement of the County natural features regulations does not result in any restriction in the use of private property, as the wetlands and riparian areas on this site are primarily within the floodplain. Regulations governing floodplains, wetlands, and riparian areas address health and safety issues. Additionally, as part of the community's recent natural features inventory

process it was determined that riparian corridors and wetlands are among the most significant and sensitive natural feature areas in our community. This is true, in part, because the federal government has listed a number of species that are native to our streams as Threatened or Endangered, including a number of salmon species. Your efforts to protect these habitat areas (and tributaries that strongly influence habitat areas) are fully consistent with the federal Endangered Species Act. Therefore, to the extent that your protections are consistent with and/or implement federal laws, including the Endangered Species Act, they may be considered exempt from a Measure 37 claim, per ORS 197.352(3)(C).

Thank you for considering these issues in your analysis of the McFadden Measure 37 claim #M37-07-099. Please feel free to contact me if you have questions regarding these issues. I can be reached at 766-6908, or via email at ken.gibb@ci.corvallis.or.us

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Gibb". The signature is fluid and cursive, with a large initial "K" and "G".

Ken Gibb, Community Development Director

cc. Mayor / City Council
Fred Towne, Planning Division Manager
Kevin Young, Senior Planner