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LandWatch

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Oregon in the Wake of Measure 37

The big court battles are over, the constitutional questions are settled. Measure 37 claims, in abeyance pending the Supreme Court's ruling, now resume in a relentless stream. Where do we go from here? What do we do to minimize the damage that is sure to be inflicted on the land we love?

Some claims are stunning in their audacity and greed: a one-million square foot shopping center and surrounding residential development on 77 acres of farm and forest land in Polk County, that would generate 30,000 - 40,000 automobile trips per day; an 850-unit subdivision on 850 acres of forested hills in Yamhill County; an 80-unit subdivision on 250 acres of Marion County farmland, in an area where wells are already running dry; a 72-unit subdivision near Wallowa Lake, next to Chief Joseph's grave. Yet the most damage will likely be done by the thousands of smaller, less

dramatic claims that are now being approved all over the state. We and other opponents will only be able to challenge a few concerned neighbors and favorable facts and legal issues. Inevitably, hundreds of thousands of acres of farm and forest land, rangeland and coastline, will be irretrievably lost to ill-considered development.

There are still major unresolved legal issues winding their way through the courts. Multnomah County is disputing whether a land division is a "use" that may be allowed under the measure. A Crook County lawsuit is about the transferability of development rights, which State officials say M37 does not authorize. 1000 Friends of Oregon is challenging the practice of granting waivers based on an unsupported assertion of diminished property values. Judge Paul Lipscomb, acting as a private citizen, has filed a suit in Marion County contesting the state

land-use agency's ability to waive state laws. By the time we have answers to these questions, two or more years down the road, many hundreds of developments will already have been approved and built. And if the last session is any indication, the next session will see the legislature and the governor teaming up to concede all of these contested issues, making any court victories irrelevant.

We mustn't forget, however, that land use laws haven't gone away; they still apply, just not to everyone equally. We'll continue to see developers trying to rezone and develop land using the exceptions and nonresource lands process. We'll continue to see developers trying to reconfigure rural parcels and fill them with template or nonfarm dwellings. We'll continue to see cities manipulating facts and figures to justify expanding urban growth boundaries onto our farms and forests.

Landwatch Annual Meeting May 11

Eugene Public Library
 Bascom-Tykeson Room
 6:45-9:00 pm

It's likely that we'll face more of these kinds of proposals than ever before as developers and public officials, believing that the voters have repudiated the planning program, conspire even more wantonly to evade the laws that remain on the books. We'll need to redouble our efforts to save what we can.

For the moment the free market forces of unbridled individualism are ascendant. Our politics are beholden to the ideology that greed, unleashed, somehow magically works to the benefit of all. But with every passing day the falsity of this faith becomes more and more apparent. Ideology cannot long belie reality. Our task is to minimize the damage that will be done over the next few years and rebuild the foundations for a polity of self-restraint, concern for community, and regard for future generations.

Jim Just
 Director, Goal One
 Coalition



Lorane Valley Neighbors Stop Measure 37 Claim

In the current avalanche of Measure 37 claims being rubber-stamped in Lane County, our neighborhood organized to successfully fight one such application.

Two years ago a 159-acre parcel in the Lorane area, zoned Exclusive Farm Use and Impacted Forest Land, was passed on to new owners. That is, an extended family who identified themselves as the new owners were spending a lot of time on the property acting as if they owned it. They put up miles of fence, brought in a travel trailer with a full-time resident and built a shelter for about forty goats.

They said that they wanted to start a professional moto-cross course, which greatly alarmed adjoining landowners. Trouble mounted when raw sewage was illegally dumped on

nearby property, and several neighbors had interactions that they perceived as threatening or intimidating. Although some people were afraid to get involved because they feared retribution, several neighbors contacted the county and were told that the moto-cross plan wouldn't be viable.

Several months ago events took another sharp turn when neighbors received notice of a Measure 37 claim to divide the property into ten house lots. This was submitted by the eighty-three year old former owner, but both "owners" showed up at the first hearing, claiming that the land had never actually changed hands, that no formal land sales contract had been filed. Subdividing the farm and forest land into as many house sites as possible would certainly maximize their potential

profit. Statistics show that in fact developers are behind the vast majority of Measure 37 claims.

To fight this suspect claim, concerned neighbors put together phone and email trees, which will be useful for future land use issues as well. We circulated a petition and divided up research tasks. We even hired a private detective and found that the current "owners" had records for defrauding the elderly, meth manufacturing, theft in the first degree, convicted felon in possession of multiple firearms, forgery, and animal fighting. But probably the most useful pieces of information were records showing a well drilled in the new owners' names and their names as partial profiteers on a logging contract for the parcel.

After several hearings, this Measure 37 claim became the only one to date in Lane County to be denied, based on insufficient proof of property ownership. Through the process, neighbors got to know the commissioners, as well as each other, and learned valuable lessons about how local government works. In spite of diverse political persuasions we united to fight this abuse of rural land because we have this in common: we are committed to protecting the rural character of the Lorane Valley.

Catherine Boucher



Interview with Kate Perle

Kate Perle, Kevin Jones and 8 year old Odell farm 24 acres on Eugene's urban growth boundary. They feed 50 families with the bounty produced there and are actively looking to protect that prime farmland for future generations.

When did you first become interested in working on the land?

When I was 10, my grandfather purchased a farm for his retirement. He had been a prominent coronary surgeon and avid gardener his entire life, but had always wanted to farm. He allowed himself this indulgence, and it proved to be a fertile training ground for me. I spent parts of the next 15 summers living with my grandparents and learning to garden, cook, can foods, care for cattle, repair machinery, build fences, respect nature, and experience the seasons. There were large wooded areas and a year-round stream that provided balance to the managed areas. Lots of space to think and plenty of room to make

mistakes. I listened to the stories of their lives and how things were "back then" and have tried to honor that in what I do today.

From your point of view why is it important to do what you're doing?

Farming is rapidly becoming a lost art and fertile farmland a scarce resource. The Willamette Valley is home to the most fertile soils in the nation, and the seasons here allow us to eat well locally year round. Yet over 90% of our prime farmland has been given over to housing and commercial development and the remaining 10% is threatened daily by urban sprawl. Saving this farmland for agricultural production is imperative, but only half the equation. In addition, we must support the farmers keeping that land in production. The multinational corporations have taken the culture out of agriculture and replaced it with business, leaving a legacy of ruined lives, communities and ecosystems in their wake. I want to be part of a different agriculture. One where people connect directly with those who grow food, build shelter and make clothing. A community where success is measured by meaningful relationships between individuals who share an interest in making their community a better place, not between shareholders and profit margins. When all our daily transactions work to strengthen our

local economy, ecology, and relations, our community will be a rich and secure place.

What is the role of Full Circle Community Farm in the community?

FCCF was set up as a non-profit organization with three purposes: to promote sustainable agriculture, to protect farmland from conversion to other uses, and to be a forum for agricultural education. To date, we have created a diversified biodynamic working farm that relies primarily on human and animal energy instead of mechanical energy. We are in relationship with approximately 40 families annually to grow their food through our Community Supported Agriculture program. We run an active on-farm education program of field trips and Farmschool, a state registered alternative education program. We have yet to fully realize our potential as a vehicle for preserving agricultural land. In addition to seeing the land we farm become secure, we want to create options for others to preserve their land. In the meantime, I try to keep myself informed about land use applications involving prime farmland and lend my support to efforts to preserve it.

How can we begin to address the need to preserve farmland?

We need to look at state land use goals that require

a 20-year inventory of land within urban growth boundaries to accommodate population growth. Populations need farmland to support their lives, not just residential, commercial and industrial lands. Without a comprehensive survey of remaining prime farmland that can be used for food, fiber and fuel crops, and a strategy to preserve it for just that purpose, we are building ourselves out of a future. In addition, we need a local organization that proactively protects farmland from conversion to other uses through education and deed restrictions. I envision an organization that would educate landowners about the need for land trusts, conservation easements and the purchase or transfer of development rights, and help them follow through with one of these options. Active agricultural land trusts exist in other parts of the country, but not here now.

What difficulties do you face as an organic farm family?

A local farmer once told me that the least sustainable aspect of sustainable agriculture is the farmer. Farming at this scale requires one to be a Jill-of-all-trades, available all hours, without much compensation. The flip side is that I get to be outside in all seasons, work with the natural world, and see the fruits of my labor every day. For lots of people, that's

not reward enough, and long term relationships with others who want to work together and share the joys and responsibilities are elusive. On the urban edge, we also face pesticide drift from conventional neighbors and the continual threat of urban sprawl.

As you look to the future what are the prospects for organic farms?

The end of cheap abundant oil will bring the practices of true sustainability to the fore. The agricultural land within and surrounding our communities will be a vital element of our survival. The time tested methods and technology we find at "historic farms" will be part of our future, not just our past. There will be a return to local, small scale, diversified, balanced production using animal and human power. Agriculture will not be characterized by a landscape of machinery, but instead by one of people. The general public will support these operations and be vested in their continued productivity. I welcome the day when everyone can see the face of their farmer as they look at their food. Eating is an intimate act, shouldn't we have a relationship with the ones who make it possible?



Grassroots Democracy in Cottage Grove

"We don't want a bigger piece of the pie; we want a different pie."

-Winona LaDuke

Over the past 30 years, progressive residents in the Cottage Grove area have been active around political, social, and environmental issues. Recently, a few local groups have emerged with quick success despite very small budgets and a generally conservative tenor in the community.

The Cottage Grove Blackberry Pie Society came together during the 2004 presidential election to support the Democratic contender and candidates in other races. Afterwards, the group began sending "Pie A La Mode" and "Pie in the Face" certificates to comment on political deeds, invited local politicians to meet with them, and set up a weekly email Action Alert to over 100 local members.

Operating with a strong sense of humor and cordial relationships even with politicians whose views they oppose, the Blackberry Pie name has become known throughout the county, and the group has received invitations to speak at the local Chamber of Commerce and the Kiwanis Club.

Friends of Mt. David is another grassroots group which formed when Mt. David, the biggest hillside in town, was slated for developments encompassing over 500 new homes. Members were concerned that the local Planning Commission and City Council did not take into account significant issues such as traffic and erosion. During the torrential winter rains this year, the existing neighborhood at the bottom of the hill was flooded with rain and mud even before any paving occurred. Friends of Mt. David hired a lawyer, became a presence at every City Council meeting and ended up being party to a negotiation in which most of their requests became legal conditions for one of the developments.

When the Cottage Grove WalMart recently decided to expand, another grassroots group sprang into action, meeting weekly to begin opposition both in terms of legal actions and public relations. Already a number of letters to the editor have appeared in the local weekly newspaper, and the group had a strong turnout when it gave a showing of the documentary, *WalMart: The High Cost of Low Price*, at the community center.

Prominent Citizen Joins LandWatch Board Member in Speedway Fight

The recent entry of prominent businessman and city father, Carlton Woodard, has added a new curve to the Cottage Grove speedway controversy. After the city council voted to allow more cars to race and to extend the racing season, Woodard became chief petitioner in a new appeal.

He joins residents Martin Kilmer and LandWatch board member Kris Okray, who for years have lead opposition to illegal activities at the speedway at considerable personal expense.

Although Cottage Grove may still be better known for its "Animal House" connections than its activist groups, local grassroots democracy is clearly gaining on the claim-to-fame scale. If you want a piece of the action, contact blackberrypie@gmail.com and come on down to Cottage Grove for a piece of pie.

Leslie Rubinstein

According to a 4/12/06 *Register-Guard* report, at a hearing last November Woodard "charged that the council would expose city residents to liability by letting the racetrack operate before making improvements scheduled in their master plan."

The new spin doesn't trouble Bill Kloos, attorney for the speedway owners. "It's completely immaterial," he said, as the City of Cottage Grove races toward a liability suit.

Newsletter Credits:

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Council actions in Veneta support filling wetlands like this one.

Kangaroo Court in Veneta

The City of Veneta recently received a Department of Land Conservation and Development Technical Assistance grant to help fund a downtown revitalization and development design process. It will be coordinated by the Oregon Downtown Development Association (ODDA). Veneta will also be investing \$30,500 in taxpayer money. What will this money buy? The past and ongoing tussle between the City and supporters of wetland protection may be instructive.

On July 5, 2004, the Veneta City Council and Planning Commission jointly approved a development application for 40,000 square feet of building space and parking that would fill in .88 acres of wetlands on a parcel of about four acres zoned as commercial, forested wetlands. The property is on Jack Kelley Drive, a frontage road off Hwy 126, that serves as a gateway into Veneta. Our local Veneta land use advocacy group,

along Hwy 126 that function as flood control and natural filtration for storm water.

To the contrary, the City has proposed new findings for approval that rely on underlying information not in the record; make assertions that are not wholly accurate; and cite testimony taken out of context. Worse, the new findings will essentially gut Veneta's wetland ordinance for those properties along Hwy 126. The City is even trying to make the case that public need is met by the simple act of applying for development.

In mid-March, at its second town hall meeting in Veneta, a market analyst for ODDA was excited because she'd had an epiphany while driving to the meeting. Recalling that many small towns are seeking to identify their character and establish a theme for their downtown revitalization, she realized that Veneta is already graced with identifiable character: its abundant wetlands.

On March 27 the City Council and Planning Commission approved the new findings, providing grounds for another appeal. Meanwhile, the City of Veneta is considering recommending to the ODDA that there be no further at-large citizen participation in the downtown development process.

Mona Linstromberg

Region 2050 Update

The objective of the 2050 regional problem solving project is to get Lane County and ten cities in the southern Willamette Valley to allocate population and economic growth within the region over the next 50 years. While regional planning could and should be a good idea, planning for business as usual is not. Preferring business as usual, Cottage Grove and Springfield have dropped out, creating some uncertainty for the future of the project. Nevertheless, it continues to move forward and still has support from staff and the remaining policy board members.

Citizens should be on the alert for local opportunities to express concerns and offer suggestions about the project. Region 2050 staff will be making visits to your city councils and their staff so the earlier your perspective is presented, the better.

Lauri Segel



Increasing rural housing density increases the risk of catastrophic forest fire.

Rural Fire Safety Rules Encourage Wildland Development

A solitary cabin nestled in the woods, a wisp of smoke trailing from its chimney. It's a beguiling image of self-reliance, founded in our nation's early history from Walden Pond to the Willamette Valley and apparently deeply embedded in our psyches as well.

As a stimulus to westward expansion in the mid 1800s, the federal government granted land – 160 acres of it west of the Cascades – to anyone adventurous enough and willing to clear it, cultivate it and live on it for at least a couple of years. They came, they claimed, they cleared – and they multiplied. And when they multiplied their local government helped them

divide. Now those 160-acre land grants have shrunk to 5- and 1-acre lots, and the cozy cabins have grown into mansions.

In just 150 years the perspective has shifted from more land than people to more people than land. Former wildlands have become urban interface zones. With the multiplication of houses, powerlines, vehicles and roads in forest land, fire danger to ever closer neighbors and marginalized wildlife has increased as well.

Last January, Lane County's Land Management Division (LMD) sent a notice to potentially affected landowners regarding a proposed wildland-urban interface combining zone. This would require owners of new rural residences to maintain firebreaks of 130', 30' of which would provide

a "defensible space" around the house of groundcover no higher than 24" and trees spaced 15' apart at the crowns. In addition standard access routes must be provided for emergency vehicles and evacuation of residents.

These standards would apply not just to Impacted Forestland (F2 zone) but to 13 rural zones. According to the LMD, this is necessary because each rural zone allows either a temporary or permanent habitable structure. These include medical hardship dwellings, childcare facilities, lodges, even hotels, schools and churches. A far cry from the small cabin in a dark woods.

To help build a case for what many rural homeowners may consider unnecessarily draconian measures, the county included with its public notice a color-illustrated brochure and text dramatizing the "thirst" of fire for fuel, the "catastrophic" result of having "played with fire too long" by not maintaining adequate fire safety standards.

Most reasonable people would agree that some measure of fire safety is a responsible tradeoff for the privilege of living in wildland areas. However, it is reasonable to ask why dwellings have been permitted on resource land that had better been protected for the communal benefits it provides: clean air and water, timber

and jobs, to name but a few. It is disingenuous, hypocritical and indicative of the influence of development interests that rural lots too small to provide all of the secondary fire break and dwellings in riparian corridors are excused from meeting the fire safety standard. The effect of these exceptions is to expose wildlands to further unnecessary risk.

In the guise of fairness and reasonable expectation, the LMD is proposing fire safety requirements that:

- Encourage and facilitate development in wild and natural lands.
- Result in more wild land rezoned to marginal, more template dwellings, and more resources removed from resource lands, degrading air and water and destroying wildlife habitat.
- Provide insubstantial material and structural standards.
- Serve as little more than a hollow pretext to facilitate development because enforcement beyond the final inspection will be either sporadic or non-existent.

If the LMD is truly committed to fire safety and to communal health, it must stop approving dwellings on resource land. It's not Walden anymore.

Robert Emmons

Lane County Land Use Update

With legal assistance from Goal One Coalition, LandWatch is currently involved in a wide range of land use issues, from protecting forestland in the Cascades to protecting shorelines on the coast.

- Applications to rezone 320 and 74 acres south of Eugene and 103 acres in Fall Creek from "resource" to "marginal" lands were recommended for denial by the Planning Commission. The Board of Commissioners (BCC), however, is not likely to uphold the recommendations. LandWatch and Goal One will join in pursuing appeals to LUBA if necessary.

- The BCC voted to amend its Coastal Resources Management Plan to allow for more residential development in Florence along the western banks of the Siuslaw River and for riprap to protect existing and future development from bank erosion. Oregon Shores Conservation Coalition is joining in an appeal to LUBA.

- LandWatch is challenging Lane County's proposed "legislative" upzonings for 21 properties in the Coast Fork Willamette watershed which would allow for more development without charging any of



the customary county fees. While some of the rezonings were approved by the Planning Commission, the proposal for the moment is stalled while the county tries to figure out how to address legal objections that LandWatch and Goal One have raised.

LandWatch is also involved in three cases with implications beyond specific properties.

- In *Lovinger v. Lane County*, LUBA affirmed the county's decision that a road divides a lot if the road right-of-way was conveyed by deed, but not if it was only an easement. While this was a partial victory for LandWatch, we believe LUBA was wrong – and have hopes that the Court of Appeals will agree.

- LandWatch is also challenging Lane County's legal lot verification ordinance. Unregulated lot line adjustments, paired with the "roads dividing lots" theory,

have been abused by Lane County's land use practitioners to create rural subdivisions on some of our best forest land.

- Lane County charges over \$3,000 for an appeal to the Board of Commissioners of a decision by the hearings official. Exorbitant appeal fees are a stiff deterrent to citizen involvement. The county recently raised these fees by 7.5%, to over \$3,500. LandWatch has filed an appeal to LUBA and will argue that the county hasn't established that the fees are reasonable and no more than the county's actual or average cost of handling the appeals. A win could set an important precedent and protect citizen involvement throughout Oregon.

Goal One staff attorney Jan Wilson is handling all three of the above cases on behalf of LandWatch.

Jim Just

Oregonians Asked to Take "Big Look" at State Land Use Planning

In the wake of Measure 37 a three-year assessment of Oregon's land use planning system, known informally as the Big Look, has been established by Senate Bill 82. A 10-member Task Force on Oregon Land Use Planning has been chosen and is required to make an interim report to the 2007 legislature with legislative recommendations on (a) The effectiveness of Oregon's land use planning program in meeting current and future needs of Oregonians in all parts of the state; (b) The respective roles and responsibilities of state and local governments in land use planning; and (c) Land use issues specific to areas inside and outside urban growth boundaries and the interface between areas inside and outside urban growth boundaries. A final report is due on February 1, 2009.

Oregonians concerned about their state's well-being should make their voices heard at scheduled meetings so that the Big Look isn't commandeered by people with development interests and rubber-stamped by a committee with the same bias.

Stay tuned for meetings in your area.

Learn more at:
www.EnvisionOregon.org
or call 503.497.1000