The following provisions are added to and made a part of ORS chapter 197:

(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.

--- from the text of Measure 37

When Oregon voters passed Measure 37 in November 2004, its implications moved from the hypothetical to the actual. This edition of the Metroscape® atlas explores how Measure 37 claims might affect Oregon’s future.

This atlas describes the geographic distribution of the claims that have been filed so far because location, size, and substance are keys to the measure’s effects. Given space constraints, we emphasize maps over explanatory text. Future editions of the atlas will focus in greater detail on a variety of potential impacts of Measure 37.

From the outset, it is important to keep in mind that the right to make a claim is not universal. It rests primarily on two factors: the date on which you bought your land, and the date of the subsequent land use regulation. Unquestionably, the regulation with the farthest reach, as far as Measure 37 is concerned, is Oregon’s Senate Bill 100. SB 100 required the establishment of urban growth boundaries (UGBs) surrounding every municipality in the state in order to prevent leapfrog suburban development on prime farm and forest land, while simultaneously embedding strict development prohibitions in the zoning code applied to farm and forest land outside of UGBs. The net result of this combination of factors is that most Measure 37 claimants bought their land prior to the acknowledgement of the UGBs (in the metroscape, 1979), and most claims are outside of UGBs (figures 1 and 2).

As of December 4, 2006 (the last day on which claims could be filed on a past land use action), cities, counties, and the State had received claims for 7,562 properties covering 750,898 acres of land. The overwhelming majority of the land subject to claim is resource land, and most claimants seek residential development.

The data, at this time, are incomplete. There are requirements and procedures differ from county to county, city to city, and state to county to city. The Institute of Portland Metropolitan Studies (IMS) was funded by the Gray Family Fund at the Oregon Community Foundation to create the most up-to-date and comprehensive statewide Measure 37 database available. However, because of the crush of claims filed just before the December deadline, attribute data—such as requested land use, current zoning, and requested compensation—are not yet available for all of the claims in the database.

We anticipate that the IMS Measure 37 database will be complete by fall, 2007. (For further information about the IMS Measure 37 database project and downloadable data and maps, see the IMS website at: http://www.pdx.edu/ims).
In looking at Measure 37 across Oregon, we’ve aggregated the claims by township (one township equals 23,040 acres). Figures 1 and 2 illustrate how the distribution of claims is shaped by the presence of UGBs (nearly all claims are outside of UGBs) and public land. This has created, in the Willamette Valley and Hood River Valley, in particular, a highly compressed geography of claims. In the Willamette Valley, for example, approximately 90% of claims are within five miles of a UGB; at the same time, 89% of these claims are within five miles of public land. In addition, figure 1 indicates the large number of relatively small claims in the counties surrounding the Portland area UGBs.

Comparing the percentage of acreage per township under Measure 37 claim (figure 2) to the number of claims per township (figure 1) shows that a small number of very large claims, generally adjacent to public land, are responsible for the geographic shift in densities of claimed land. Stimson Lumber Company, for example, has claimed more than 35,586 acres in Washington County alone concentrated in the Coast Range, abutting public land.

The Willamette Valley

Figures 3 and 4 (pages 14 and 15) show claims in two ways. The first emphasizes all the claims at the expense of spatial accuracy. The second shows claims at the tax lot level and is spatially accurate, but small claims disappear at this scale.

Figure 3 essentially illustrates the distribution of soils and vegetation as they relate to land use zoning under SB 100. Here we see Exclusive Farm Use (EFU) zoning at the heart of the valley where prime farm soils are most prevalent. As we move into the Coast and Cascade ranges, farmland makes way for forest land and exclusive forest zones. The graduated circles are in relationship to the size of the claim. The clustering of smaller claims proximate to the Portland region's UGB can be clearly seen.

Subdivision, or the division of a parcel into four or more lots in Oregon, is the most commonly requested land division type for Measure 37 claims filed for the nine counties mapped (40.6% of requests). Subdivision requests are dispersed throughout the valley, but notably the claims that are largest in acreage (that specify an action) are requesting subdivisions (figure 3). Nearly 30% (29.8%) of claims do not specify a request or the request is unknown, and 19.4% of claims specify a partition of the property (division into three lots or less in Oregon) as the desired land division type. The remaining 10.1% of claims either do not request a land division—that is, they plan on building a house on the existing parcel—or are asking for some other actions, such as a lot line adjustment, which does not create any new lots (figure 4).
Willamette Valley Measure 37 Claims on Resource Land

Claims Filed as of 12-4-06

<table>
<thead>
<tr>
<th>Claim Size</th>
<th>Resource Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>None Specified</td>
<td>EFU &amp; FF</td>
</tr>
<tr>
<td>1-5 Ac</td>
<td>EFU &amp; FU</td>
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<tr>
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</tr>
<tr>
<td>201-500 Ac</td>
<td></td>
</tr>
<tr>
<td>501-10,000 Ac</td>
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</tbody>
</table>

Sources: M37 Claims: Institute of Portland Metropolitan Studies; Boundaries, Roads and Water: Metro RLIS, US Census Bureau; UGBs, Tax Lots: Metro RLIS, Marion Co. and Yamhill Co.
Willamette Valley Measure 37 Claims by Desired Action

Figure 4

Sources: M37 Claims: Institute of Portland Metropolitan Studies; Boundaries, Roads, Public Lands and Water: State of Oregon, Geospatial Enterprise Office
Figure 10

Willamette Valley Measure 37 Claims and Class 1 and Class 2 Soils

Sources: M37 Claims: Institute of Portland Metropolitan Studies; National Resource Conservation Service SSURGO Soil Survey; Boundaries, Roads and Water: Metro RLIS, US Census Bureau; UGBs, Tax Lots: Metro RLIS, Marion Co. and Yamhill Co.

Claims Filed as of 12-4-06

<table>
<thead>
<tr>
<th>NICCDDC Soil Class Affected by M37 Claim</th>
<th>NICCDDC Soil Class Not Affected by M37 Claim</th>
</tr>
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<tbody>
<tr>
<td>Class 1</td>
<td>Class 2</td>
</tr>
<tr>
<td>Water</td>
<td>County Land</td>
</tr>
</tbody>
</table>
High Value Farm Soils and Measure 37

To begin to explore the impact of claims on prime farm soils, we intersected the Measure 37 claims with the Natural Resources Conservation Service Soil Survey Class 1 and Class 2 soils (figures 5 and 6). Nearly 12% of Benton County's Class 1 soils are affected by claims as are 10% of Class 2 soils in Polk and Multnomah counties. Claims specifying a subdivision are outlined in yellow, and those where the land use request is not specified are outlined in red. The remaining claims request a partition (three or fewer lots), no land division, i.e. they plan on building a house on the existing parcel, or are asking for some other action, such as a lot line adjustment, which does not create any new lots.
Claim Density

Figure 7 analyzes the density of claims or the number of Measure 37 claims within one mile of each claim. This analysis does not take into account the size of the claims, only the incidence of claims. However, the more claims there are within this measure, the smaller in size they are likely to be, so that the darker shades of brown tend to indicate a larger number of smaller claims. Large claims, such as those filed by Stimson Lumber in western Washington County, appear in a very light shade of brown as the claim density is very low in that location.

Some observers suggest that people are more likely to file claims if the majority of their neighbors do so. While this analysis cannot definitively address this issue, it does indicate that claims are significantly clustered.

The spatial clustering of the incidence of claims in the Stafford Triangle between Lake Oswego and Wilsonville, in southwestern Washington County, and within a 2-mile buffer around the metroscape’s UGBs can be clearly seen on this map.

A "Greenbelt" Effect?

The availability of sales date data (although incomplete) for Metro’s Regional Land Information System (RLIS) GIS dataset gives us a sense of the potential impacts of Measure 37 on farmland and raises questions about the economic viability of farming if requested subdivision development should occur.
Figure 8 illustrates an area of western Washington County including Hillsboro, Cornelius, Forest Grove and the land surrounding their UGBs. All of the areas in shades of red, orange, and pink are Measure 37 claimed tax lots. Areas in green are tax lots with sales dates of 1979 (the date of the acknowledgment of the region's UGBs) to the present. Claims, while possible, are unlikely in these areas. The light gray indicates areas where no sales data are available.

Several aspects of this map are provocative. First is the size of some of the claims, which approximate the size of small cities such as Cornelius. Second, the distribution of claims is relatively even across this western portion of the County. Third is the pattern of "greenbelts" of properties purchased after 1978 where farm and forest zoning will most likely stay in effect. These apparent greenbelts create an amenity to Measure 37 claimants that could enhance the value of subsequent subdivisions and increase the likelihood of development.

Finally, these factors raise questions as to the viability of farming in an area that could be punctuated by considerable leapfrog subdivision development. Over and above the issues of service and infrastructure costs, it raises questions of fairness to farmers who have recently invested in their property and who may find a political landscape dominated by suburban interests unfavorable to the less palatable aspects of agricultural production, such as the spraying of chemicals and 24-hour harvesting.