



Oregon

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May 11, 2017

TO: Land Conservation and Development Commission

FROM: Jim Rue, Director
Sarah Marvin, Measure 49 Specialist

SUBJECT: **Agenda Item 4, May 18-19, LCDC Meeting**

RURAL DEVELOPMENT AUTHORIZED BY MEASURE 49

I. AGENDA ITEM SUMMARY

The commission will receive a presentation about rural development that has occurred under the authority of Measure 49, which was passed by voters in 2007. Staff will also report about ongoing work to improve the database that tracks and maps Measure 49 authorizations and actual development.

To date, only a portion of the development authorized by Measure 49 has occurred, roughly 12 percent of authorized dwellings and 28 percent of authorized new parcels. The rate of development has increased in recent years, but it is still likely that development will continue over decades. The data used in this report comes from ongoing work by the department to improve the accuracy and completeness of map data. Because of this intensive effort, the department now has a robust Measure 49 data set. The commission's questions will drive how we further analyze this rich pool of data.

For further information about this report, please contact Sarah Marvin, Measure 49 Specialist at 503-934-0001 or sarah.marvin@state.or.us.

II. MEASURE 49 DEVELOPMENT

A. Measure 49 History

In November 2004, voters approved Measure 37 which required payment or "waiver" of land use regulations that restrict the use and reduce the value of private property. Due to the number, size, and types of development allowed under Measure 37, legislators responded by referring Measure 49 to the voters. In November 2007, voters approved Measure 49, overturning Measure 37. Measure 49 addressed two types of claims: former Measure 37 claims and new claims for future land use regulations.

For former Measure 37 claims, Measure 49 limited the type of development allowed to residential development only, in the form of home sites which consist of one dwelling on one parcel. Measure 49 provided two options: a simple filing to apply for up to three home sites; or a more complex filing with an appraisal to apply for up to ten home sites. Claimants who had received Measure 37 waivers from the state and a local jurisdiction, *and* who had completed or substantially initiated development, had the option of seeking a common law vested rights determination instead of seeking review under Measure 49.

Measure 49 is substantially different for claims for land use regulations adopted after January 1, 2007. Landowners may file claims for land use regulations that restrict a residential use, or a farm or forest practice. Landowners must provide an appraisal demonstrating a reduction in fair market value measured from one year before the land use regulation was adopted to one year after adoption. A claim must be filed within five years of the land use regulation’s enactment. The remedy for a successful claim may be compensation or waiver of the restrictive land use regulation. Staff is not aware of any successful Measure 49 claims based on regulations adopted after 2007.

B. Development on Former Measure 37 Claim Properties Under Measure 49

By the end of 2011, when the last Measure 49 home site authorizations was issued, the state had authorized a total of 6,238 new dwellings and 3,947 new parcels for 3,542 Measure 49 claims. Staff analysis of available data reveals that a majority of authorized development had not occurred by the end of 2015: approximately 12% of authorized new dwellings and 28% of authorized new parcels had been created. Thus, there are still far more Measure 49 parcels and dwellings authorized than have been completed, especially in the Portland Metro region, the Willamette Valley and Jackson County.

Table 1: Status of Measure 49 Authorized Dwellings and Parcels

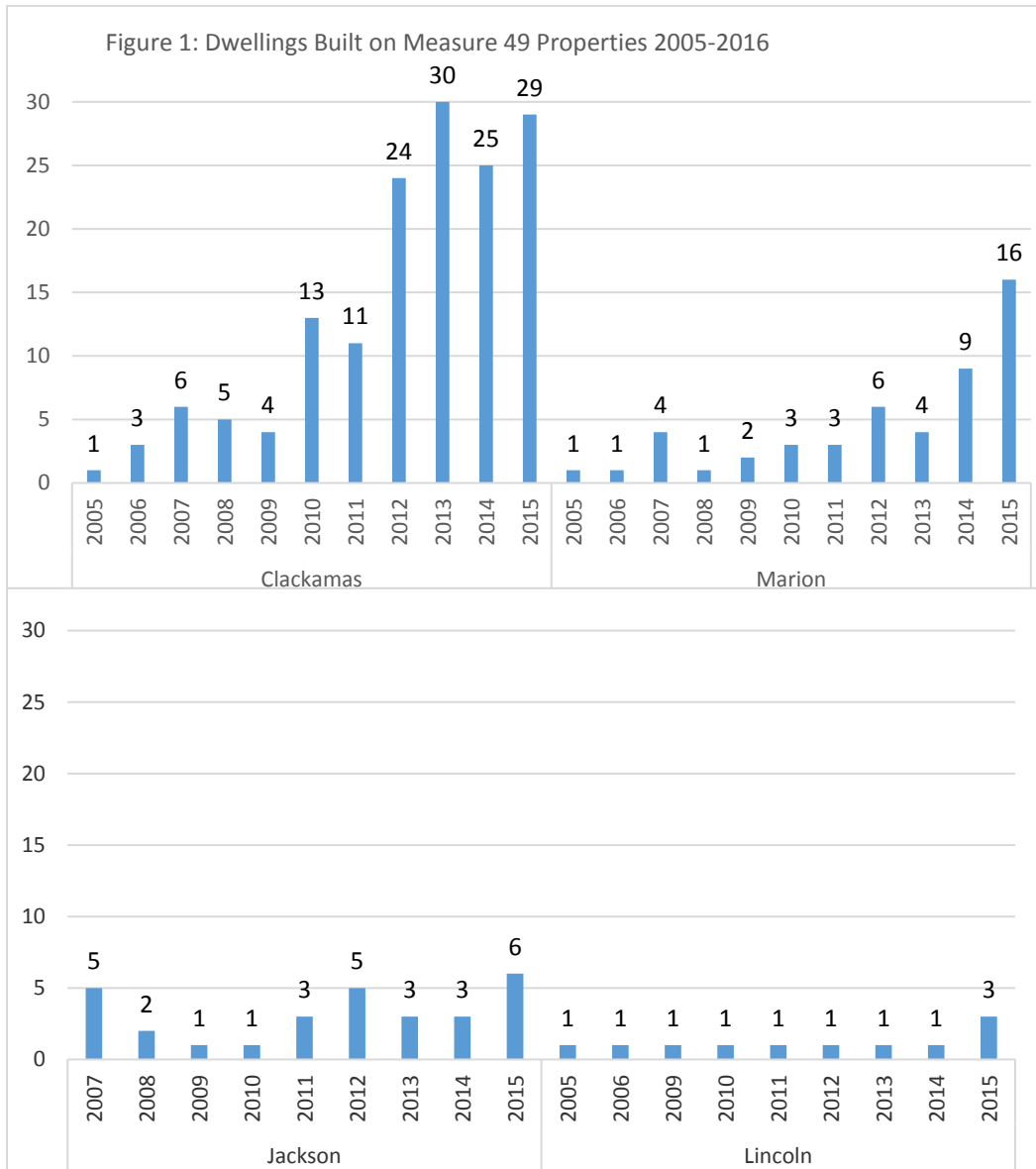
COUNTY	DWELLINGS					PARCELS		
	Total Authorized	Built		Remaining Authorized		Total Authorized	Created	
Clackamas	1,158	153	13%	1,005	87%	810	197	24%
Washington	604	78	13%	526	87%	390	148	38%
Lane	469	38	8%	431	92%	293	81	28%
Jackson	444	44	10%	400	90%	305	84	28%
Yamhill	393	<i>No data</i>				240	92	38%
Marion	361	77	21%	284	79%	223	63	28%
Linn	331	<i>No data</i>				222	89	40%
Polk	305	25	8%	280	92%	186	56	30%
Douglas	208	<i>No data</i>				142	<i>No data</i>	
Klamath	195	<i>No data</i>				78	7	9%
Jefferson	185	<i>No data</i>				113	20	18%

COUNTY	DWELLINGS					PARCELS			
	Total Authorized	Built		Remaining Authorized		Total Authorized	Created		
Coos	182	<i>No data</i>					104	24	23%
Hood River	168	23	14%	145	86%	113	24	21%	
Josephine	142	24	17%	118	83%	106	24	23%	
Deschutes	130	<i>No data</i>					93	20	22%
Baker	112	<i>No data</i>					54	12	22%
Lincoln	110	17	15%	93	85%	49	15	31%	
Curry	96	<i>No data</i>					48	11	23%
Benton	91	<i>No data</i>					53	8	15%
Columbia	90	9	10%	81	90%	62	15	24%	
Multnomah	84	9	11%	75	89%	39	6	15%	
Tillamook	81	1	1%	80	99%	46	19	41%	
Wallowa	61	<i>No data</i>					37	<i>No data</i>	
Umatilla	55	<i>No data</i>					30	4	13%
Clatsop	45	<i>No data</i>					27	9	33%
Wasco	44	1	2%	43	98%	21	8	38%	
Crook	44	<i>No data</i>					27	5	19%
Union	28	<i>No data</i>					20	9	45%
Malheur	16	<i>No data</i>					10	<i>No data</i>	
Grant	5	<i>No data</i>					5	<i>No data</i>	
Lake	1	<i>No data</i>					1	<i>No data</i>	
Gilliam, Harney, Morrow, Sherman and Wheeler counties had no authorizations.									
Statewide	6,238	12%		88%		3,947	28%		
<i>Statewide percentages were calculated using only the counties with data, and may not be representative of all counties.</i>									

C. Trends in Dwelling Development

Due to the available methods and data, we were able to evaluate trends only for dwellings and only in four counties: Clackamas, Marion, Jackson, and Lincoln. These counties represent regions across the western part of the state, specifically, the Portland Metro area, the Willamette Valley, southern Oregon, and the coast. These counties also represent a range of Measure 49 authorized new dwellings: Clackamas County (1,157); Jackson County (444); Marion County (361); and Lincoln County (110).

In general the numbers of dwellings built per year increased between 2010 and 2015 in Clackamas and Marion counties (Figure 1). In other counties, however, the levels of development are too low to identify any trend.



D. Potential Future Development

Through 2015, Measure 49 development was slow to get going, with only 12% of new dwellings and 28% of new parcels created. However, the general increase in annual numbers in the Metro and Willamette regions where most of the Measure 49 development was authorized indicates that Measure 49 development will likely go up.

At current rates it would take several decades for all of the authorized dwellings to be built. For example, in Clackamas County the average rate was 27 dwellings per year from 2012 through 2015. At that rate, and assuming that all of the authorized dwellings are ultimately built, the final Measure 49 dwellings would be built in 2052. Obviously the future will not be a simple

extrapolation of the recent past, but it is likely that Measure 49 dwellings will continue to have an impact on rural development for 20 years, and possibly more than 30 years.

One factor that could change future development rates is the “ten-year clock.” Measure 49 authorizations run with the property and do not expire if held by the original claimant. However, if the property is sold or inherited, the authorization is only valid for ten years from the date of transfer. Roughly 66 percent of claimants acquired their property before 1975, suggesting the prevalence of an older population. Together, these facts suggest that there will be an increase in the rate of Measure 49 development in subsequent years as new owners buy or inherit Measure 49 properties, triggering the ten-year clock. For heirs who inherited properties during the Measure 49 processing period, the ten-year clocks will begin closing in 2018.

One way to reduce the negative impacts of Measure 49 development on farm and forest lands would be to transfer the development to properties where it would have less impact. In 2015, the commission adopted rules to clarify how counties could adopt programs for transferring Measure 49 development credits (TDC). These TDC programs would protect sensitive and valuable resource properties by offering incentives to landowners to transfer development authorized by Measure 49 to specified properties that would be more appropriate for home site development. Department staff have been assisting counties that have expressed interest in the program, including Washington, Lincoln, and Lane Counties. To date, no county has adopted a TDC program.

III. DATA AND TOOLS

A. Tracking Measure 49 Properties

Tracking the locations of Measure 49 claim properties and development required creating an accurate computer map using a geographic information system (GIS). The first step was checking and correcting tax lot identification numbers in the Measure 49 database. This involved researching final orders and original claim documents to correct errors caused by the complexities of Measure 49 claim properties and changes in property configurations in the time between Measure 37 ending and Measure 49 beginning.

The second step was using GIS to link the Measure 49 database to maps of tax lots from 2007. Tax lot maps are created by county tax assessors, and 30 out of 36 counties share those maps with state agencies. Due to inaccuracies inherent in older tax lot maps and changes in tax lots over time, additional corrections were required to successfully match the database with 2007 tax lot maps. Over time counties have improved the spatial accuracy of their tax lots. Thus, the final step was to adjust the 2007 tax lot boundaries to the spatial accuracy of 2015 tax lots without changing the property configurations as they existed when the Measure 37 claims were filed.

These steps would have been more work than existing staff could accomplish, so the department worked with a professor and student at Lane Community College on a pilot project using Lane County maps. We then hired the student as a temporary employee to complete Measure 49 maps for all counties that share tax lot data. The work included writing scripts that automate repetitive

data processing steps, which can be used on future tax lot data sets. The result is a nearly complete and highly accurate GIS layer of Measure 49 authorized properties, linked to data on the numbers of home sites authorized and to final orders.

The new Measure 49 properties layer will be available online through the [Oregon Explorer](#) as an updated “Measure 49 Analyzer.” This web application will allow anyone to search for a Measure 49 property, click a link to its Final Order, and create a report complete with map and calculations of the percentages of high-value farmland, high-value forestland, and groundwater restricted area.

B. Assessing Development

To determine which Measure 49 properties area at different stages of development, GIS was used to compare numbers of tax lots and dwellings in 2015 and 2007. Thirty counties currently share tax lot maps and limited tax assessment data with state agencies. For these counties, the number of parcels created was calculated as the difference between the number of tax lots in the 2015 tax lot map and the 2007 tax lot map. Thirteen counties share additional assessment data that indicates whether a dwelling exists on the tax lot. For these counties, the number of dwellings built was calculated as the difference between the number dwellings in the 2015 tax assessment data and the number of dwellings shown in the Measure 49 database at the time the Measure 37 claim was filed. Four counties share assessment data that includes the year the dwelling was built, which is shown in Figure 1.

IV. ATTACHMENTS

A. Map of Measure 49 Built and Unbuilt Dwellings by County

Built and Unbuilt Measure 49 Dwellings through 2015

