

## SUPPLEMENTAL MEMO

**Memo Date:** May 23, 2007

**Hearing Date:** June 5, 2007 (Continued from May 1, 2007)



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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works Dept./Land Management Division

**PRESENTED BY:** BILL VANVACTOR, COUNTY ADMINISTRATOR  
KENT HOWE, PLANNING DIRECTOR

**AGENDA ITEM TITLE:** In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA06-7202, Miller)

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### BACKGROUND

**Applicant:** Michael and Michelle Miller

**Current Owner:** Michael and Michelle Miller

**Agent:** Michael Farthing

**Map and Tax lots:** 17-02-19, tax lots #1100 and #1200

**Acreage:** approximately 20 acres

**Current Zoning:** E40 (Exclusive Farm Use)

**Date Property Acquired:** January 13, 1995 (WD # 049406)

**Date claim submitted:** December 1, 2006

**180-day deadline:** May 30, 2007

**Land Use Regulations in Effect at Date of Acquisition:** E40 (Exclusive Farm Use)

**Restrictive County land use regulation:** Minimum parcel size of forty acres, gross farm income level requirements and limitations on new dwellings in the E40 (Exclusive Farm Use) zone (LC 16.212).

This claim was originally heard on May 1, 2007. The Board continued the discussion of this claim to the June 5, 2007 public hearing in order to allow the claimants time to submit additional information and have the Board reconsider the recommendation. The Board requested all new information to be submitted to Lane County by May 18, 2007.

## **ANALYSIS**

The current owners are Michael and Michelle Miller. The Miller's acquired an interest in the property on January 13, 1995, when it was zoned E40 (WD # 049406). Currently, the 20 acre property is zoned E40, and consists of 2 tax lots, 1100 & 1200, that are crossed by the Eugene-Springfield Metropolitan Area Urban Growth Boundary (UGB).

Tax lot 1200 has an existing dwelling inside the UGB. The material submitted by the claimants does not clarify whether or not the portion of the property that is inside the UGB is or is not included in this claim. The documentation submitted on May 18, 2007 attempts to clarify the valuation of the property, but does not adequately address the value of urban development potential on the portion of the ownership that lies within the Springfield UGB. No claim appears to have been filed with the city of Springfield. The valuation analysis on the urbanizable portion of tax lot 1200 would probably affect the total valuation analysis.

The applicants submitted additional valuation analysis on April 25, 2007 and on May 18, 2007. The alleged reduction in fair market value is \$650,000, based on comparable sales of riverfront dwellings as discussed in a letter from their agent. The letter mentions future partition of the portion of the ownership that is within the Metro UGB, but does not address the valuation of that portion.

The requirements for a gross annual income of \$80,000 from the sale of farm products allegedly prevents the owners from developing the property as could have been allowed when they acquired the property in 1995. At that time, the gross annual farm income requirement in the E40 zone was \$20,000. The E40 zone has other special use permit provisions besides the income test that allow for a dwelling in that zone. The claimant has still not demonstrated how these additional provisions of the E40 zone preclude the use of the property as it was when the claimants acquired the property.

The gross farm income and other EFU regulations, minimum lot size, and restrictions on new dwellings do not appear to be exempt regulations, but they can not be waived for the current owner. The claimant has not identified any other restrictive land use regulations that allegedly reduce the fair market value of the property.

Regulations found within the /FP (Floodplain Combining Zone) of LC16.244 are exempt regulations as defined by LC 2.710 (2) and cannot be waived.

## **CONCLUSION**

This is not a valid claim.

## **RECOMMENDATION**

If additional information is not submitted at the hearing, the County Administrator recommends the Board direct him to deny the claim.