



SUPPLEMENTAL INFORMATION SUBMITTED

Submitted on: 5-21-07

Taken By: Steph

SUPPLEMENTAL INFORMATION HAS BEEN RECEIVED BY THIS OFFICE IN REGARDS TO THE FOLLOWING:

BP# _____

PA# 06-7226 Schenk M37

SP# _____

SI# _____

OTHER:



TERRITORIAL LAND COMPANY, REALTORS 

REC'D MAY 21 2007

Real Estate Offices:
1785 East Main St.
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Stephanie Schulz
Lane County Land Management
125 East 8th Avenue
Eugene, OR 97401

May 18, 2007

Re: PA 06-7226, Measure 37 Waiver, Corrin M. and Betty M. Schrenk

Dear Ms. Schulz:

This letter is to address your report and recommendations to the Board of Commissioners with regards to the above referenced Planning Action. As I presented at the May 8, 2007 hearing, your recommended approval of the Measure 37 waiver request was not the request submitted by Mr. and Mrs. Schrenk. As I also presented at the May 8 hearing, the report you prepared has two significant errors which were addressed at that time, but which I will further address herein.

Item 1. The staff report sets out the dates of acquisition by Mr. and Mrs. Schrenk as being Jan 28, 1978 and April 19, 1979. To an extent these dates of acquisition are true, but incomplete, leading to a conclusion that is erroneous. The primary error is applicable to Tax Lot 18-02-31-303 and virtually all of Tax Lot 19-02-06-201, in which an ownership interest was acquired on May 1, 1966 by an unrecorded land sale contract entered into between Belva D. Schrenk and Ernest E. Schrenk as Sellers and Corrin M. Schrenk and Betty M. Schrenk as Buyers. A copy of this contract was included in the original application submitted on behalf of Cory and Betty Schrenk, additional copies were provided to the Commissioners and staff at the May 8 hearing.

Item 2. The staff report relies on the above error in concluding the zoning that was applicable to Mr. and Mrs. Schrenk at the time of their acquisition, concluding the zoning that should be applied under a Measure 37 waiver is Farm Forestry 20 (FF20). A significant portion of the Schrenk property was zoned Agriculture, Grazing and Timber Raising at the time of their acquisition, specifically, all of the area acquired under the above reference land sale contract.

The above two errors lead to a faulty conclusion in preparing the Order for execution by the Board of Commissioners, reiterating the dates of acquisition and relying on the zoning that was applicable on those erroneous dates.

Stephanie Schulz
May 18, 2007
Page 2

The following summary is taken from the narrative report submitted on behalf of Mr. and Mrs. Schrenk in their original application. This summary sets out by tax lot the dates of acquisition by specific parcel, corresponding to the Measure 37 Lot Book Search prepared by First American Title Insurance Company, which was also included in the original application.

First American Parcel No.	Instrument in Which Ownership Interest was Acquired	Applicable Tax Lot	Date Acquired
1.	Fee Title Conveyed in Deed 7841404 A second deed was executed on Recorded under 8045777	19-02-06-100	Jan. 27, 1978 September 15, 1980
2.	Ownership Interest Conveyed in Land Sale Contract Parcel "A" Notably, the property annotated as Parcel 4 by the First American Report is a specific exception to the legal description for Parcel 2, as it also was in the Land Sale Contract under Parcel "A"	18-02-31-303	May 1, 1966
	Fee Title Conveyed in Deed 7841404		Jan. 27, 1978
3.	Ownership Interest Conveyed in Land Sale Contract Parcel "A"	18-02-31-303	May 1, 1966
	Fee Title Conveyed in Deed 7841404		Jan. 27, 1978
4.	Fee Title Conveyed In Deed 7923230	18-02-31-303	Apr. 19, 1979
5.	Ownership Interest Conveyed in Land Sale Contract Parcel "B"	19-02-06-201	May 1, 1966
	Fee Title Conveyed in Deed 7841404		Jan. 27, 1978

If it is helpful to you, I color coded in the tax map each of the above parcels and their respective legal descriptions in each of the referenced conveyances, which were submitted at the May 8 hearing, you may wish to refer to that map. Those documents, though not color coded, were also included in the original application.

Stephanie Schulz

May 18, 2007

Page 3

Item 1. Discussion.

In reviewing the legal descriptions of the respective instruments you will note that portions of the Schrenk property were conveyed on a variety of dates as follows:

A. The Land Sale Contract dated May 1, 1966 was color highlighted with the respective descriptions corresponding to the highlighting on the map. Please note- most of the area is highlighted in blue, with two areas excepted out, highlighted in green and orange hashed lines, and also includes the area highlighted in pink. The area shown as tax lot 900, highlighted in purple was included in the land sale contract of 1966 but later conveyed out and is not part of the M-37 claim. This area is best described as tax lot 18-02-31-201 and 303.

B. The Bargain and Sale Deed dated January 27, 1978 that conveys all of the property that was the subject of the 1966 land sale contract and the property referenced as Tax Lot 19-02-06-100, this area is highlighted in magenta, both in the legal description of the deed and corresponding to the tax lot on the map. The recording of this deed is the satisfaction of the terms of the land sale contract as well as the initial conveyance of Tax Lot 19-02-06-100.

C. The Bargain and Sale Deed dated April 19, 1979, color coded in green in the legal description and the corresponding highlighted area on the map. This area was excepted out of the 1966 land sale contract and out of the 1978 deed.

Item 2. Discussion

Again, you may find it helpful to refer to the color coded map and the respective legal descriptions.

A. The area acquired in the 1966 land sale contract (color coded blue and pink) was zoned AGT (Agriculture, Grazing and Timber Raising) as set out in the report from Land Management dated October 2, 2006, PA 06-6643.

B. The area acquired in the 1978 and 1979 deeds (magenta and green highlighted areas) was zoned Farm Forestry 20. See report dated October 2, 2006, PA 06-6642.

Stephanie Schulz
May 18, 2007
Page 4

Mr. and Mrs. Schrenk have submitted a request for waiver of the current EFU zoning code and are seeking to have applied the zoning that was in effect at the dates of their acquisition of the respective parcels to allow a development request as follows:

Parcel	Applicable Tax Lot	Acreage within the Parcel	Zoning at Acquisition	Proposed Development
1	19-02-06-100	116.29	FF-20	Subdivide into five lots of 20 to 30 acres each, one to have the existing dwelling, the other four to be approved for new dwellings.
2, 3	18-02-31-303	150.75 (Less 3.3 in Parcel 4)	AGT	Subdivide into 30 lots of 2 acres to 15 acres in size. The projected development is 15 to 20 lots of 2 acres each, 5 to 6 lots of 10 acres in size, and 8 to 10 lots of up to 15 acres in size.
& 5	19-02-06-201	44.25 Total 191.70		
4	18-02-31-303	3.30	FF-20	Recognize as a Legal Lot with a single dwelling as now located on the parcel, no further division or development with additional dwellings

The above summary is an excerpt taken from the original application submitted by Mr. and Mrs. Schrenk.

The three criteria for evaluation of a valid Measure 37 claim are: 1.) Continuous ownership by the present owner or family members and the county has enacted or enforced a restrictive land use regulation since the property was acquired. 2.) The restrictive land use regulation has the effect of reducing the fair market value of the property. 3.) The restrictive land use regulation is not an exempt land use regulation as defined in LC 2.710.

I believe the original application submitted on behalf of Mr. and Mrs. Schrenk adequately addressed the above three criteria. The summary noted in this letter and the previously supplied deeds and land sale contract clearly satisfies the first element of continuous ownership. The application of the restrictive land use regulation is established by the Public Records Research Requests.

Stephanie Schulz

May 18, 2007

Page 5

Your staff report concludes the information provided by Mr. and Mrs. Schrenk in their original application adequately establishes the allegation of a reduction in fair market value.

Your staff report concludes the minimum lot size and restrictions on new dwellings in the E30 and E40 zoning are not exempt regulations.

Summation.

Mr. and Mrs. Schrenk are seeking the following waiver:

The restrictive provisions of LC 16.212 that limit the development of dwellings and the division of land in the E30 and E40 (Exclusive Farm Use) Zone shall not apply to Corrin and Betty Schrenk, so they can make application for approval to develop the property located 84100, 84300 and 84366 Cloverdale Road, Creswell, and more specifically described in the records of the Lane County Assessor as map 19-02-06, tax lots 100 and 201, and 18-02-31, tax lot 303, consisting of approximately 311 acres in Lane County, Oregon, in a manner consistent with the land use regulations in effect when they acquired an interest in the property on May 1, 1966 for tax lot 201 and 303 (noting that portion excepted from 303 on that date), January 27, 1978 for tax lot 100 and April 19, 1979 for the balance of tax lot 303 (that portion excepted from the May 1, 1966 land sale contract).

If incorporated into the Order for execution by the Board of Commissioners, the first page will need to be corrected to show the dates of acquisition to be May 1, 1966, January 27, 1978 and April 19, 1979.

I recognize the entire Measure 37 process has been an arduous task for the county staff and I appreciate the challenges associated with applications such as the Schrenks that have a high level of complexity. I hope the summary that was presented at the May 8 hearing and this letter will clear up any confusion and allow you to proceed with a new Order for the Commissioners approval


Our next hearing is scheduled for June 5, 2007. I will be out of the state at my daughter's graduation exercises from May 18 through May 27. If you have questions I can be reached on my cell phone at 954-2944. I may not be able to take your call but I will respond to you as quickly as possible if you will leave me a message, please give me a time that would be best to reach you. You can also e-mail me at jbelknap@territorialland.com.

Please let me know if you need additional information or have any further questions.

Stephanie Schulz
May 18, 2007
Page 6

Thank you for your attention to this matter. I am sure you will be happy to see the end of the Measure 37 applications.

Sincerely,


Jim Belknap
Principal Broker

cc: Cory and Betty Schrenk