

Memo Date: May 2, 2007
Hearing Date: May 22, 2007



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 (PA06-7283, Rosboro83)

BACKGROUND

Applicant: Rosboro Lumber Co., LLC

Current Owner: Rosboro Lumber Co., LLC

Agent: William R. Potter and Michael M. Reeder

Map and Tax lot(s): 16-45-29, tax lot 500 (portion northwest of McKenzie River)

Acreage: 196.01 acres

Current Zoning: F1 (Nonimpacted Forest Land)

Date Property Acquired: May 28, 1948 (Warranty Deed, Reel 52,
Reception No. 48068).

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: unzoned

Restrictive County land use regulation: Minimum parcel size of eighty acres and limitations on new dwellings in the F1 (Nonimpacted Forest Land) zone (LC 16.210).

ANALYSIS

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and

Rosboro Lumber Company acquired an interest in the property on May 28, 1948, when it was unzoned (Warranty Deed, Reel 52, Reception No. 48068). At the time, "Rosboro Lumber Company" was identified on the deed as "a co-partnership consisting of B. S. Cole, Teden H. Cole, R. T. Watts, Martha B. Watts, Spencer Collins and Vernon Williams".

The current owner is the Rosboro Lumber Co. LLC. The limited liability company was registered with the Oregon Secretary of State – Corporation Division on December 30, 1995 when the subject property was zoned F1 Nonimpacted Forest Land. The applicant has not submitted any documentation on the structure or current owners of the LLC and the relationship with the 1948 co-partnership.

Currently, the property is zoned F1.

2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and

The property was unzoned when it was initially acquired by the Rosboro Lumber Company co-partnership in 1948. It was zoned F1 when it was acquired by the current owners, Rosboro Lumber Co. LLC in 1995.

The minimum lot size and limitations on new dwellings in the F1 zone prevent the current LLC from developing the property as could have been allowed when the co-partnership acquired it in 1948. However, the connection between the owners and the conveyance deeds has not been provided by the applicants. The alleged reduction in fair market value is \$195,845, based on the submitted appraisal.

It appears the minimum lot size and dwelling restrictions of the F1 zone (LC 16.210) were applicable when the current owner acquired the property, these regulations can not be waived.

The applicant is also claiming that the following sections of Lane Code have restricted the use of the subject property:

Goal 4 and Goal 5 policies of the RCP except for the portion of Goal 4, Policy 8 pertaining to fire safety requirements. No evidence has been provided that demonstrates how these policies have lowered the fair market value of the property.

LC13.050, 13.120 and 13.400 – These provisions apply to subdivision and partitioning of property. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC15.055(1), 15.055(2)(c), 15.055(3)-(7) and 15.105-.125 – These provisions apply to road and driveway approach spacing standards and building setbacks from roads. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

The minimum lot size and restrictions on new dwellings appear to be exempt regulations and it appears from the record that they can not be waived for the current owner.

CONCLUSION

It appears this may not be a valid claim. The minimum lot size and dwelling restrictions can not be waived for the current owner.

RECOMMENDATION

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