

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 (PA06-7285, Rosboro85)

BACKGROUND

Applicant: Rosboro Lumber Co., LLC

Current Owner: Map 16-45-30.4, tax lot 1200: B. S. Cole, Teden H. Cole, R. T. Watts, Martha B. Watts, Vernon Williams and Spencer R. Collins, a co-partnership doing business as Rosboro Lumber Company (ref: Cascade Title Co.); and
Map 16-45-31, tax lot 102 (a portion of): Rosboro Lumber Company, a corporation, as to a portion; Rosboro Lumber Company, a co-partnership, as to a portion; and Rosboro Lumber Company LLC, as to a portion (ref: Cascade Title Co.).

Agent: William R. Potter and Michael M. Reeder

Map and Tax lot(s): 16-45-30.4, tax lot 1200 (37.38 acres); and
16-45-31, tax lot 102 (a portion 92.83 acres)

Acreage: a portion of approximately 130 acres

Current Zoning: F1 (Nonimpacted Forest Land)

Date Property Acquired: Map 16-45-30.4, tax lot 1200:
Rosboro Lumber Co. LLC – unknown; and
Map 16-45-31, tax lot 102 (a portion):
Rosboro Lumber Co. LLC – unknown.

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition:

Map 16-45-30.4, tax lot 1200: unknown

Rosboro Lumber Co. LLC – date of acquisition unknown; and

Map 16-45-31, tax lot 102 (a portion): unknown

Rosboro Lumber Co. LLC – date of acquisition unknown.

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

It is unknown when Rosboro Lumber Co. LLC acquired an interest in Map 16-45-30.4, tax lot 1200, therefore it is unknown what the zoning was on the property at the time.

It is unknown when Rosboro Lumber Co. LLC acquired an interest in Map 16-45-31, tax lot 102, therefore it is unknown what the zoning was on the property at the time.

Rosboro Lumber Co. LLC is an Oregon limited liability company that 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 properties are zoned F1.

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

Map 16-45-31, tax lot 102 was zoned F1 when it was acquired by the current owners, Rosboro Lumber Co. LLC in 1998. The claimant alleges the minimum lot size and limitations on new dwellings in the F1 zone prevent Rosboro Lumber Co. LLC from developing the property as could have been allowed when the Rosboro Lumber Company co-partnership acquired it in 1947. However, the connection between Rosboro Lumber Company and Rosboro Lumber Co. LLC and the conveyance deeds has not been provided by the applicants.

The claimant is alleging a reduction in fair market value is \$1,075,655, 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 tax lot 102 (map 16-45-31), these regulations can not be waived.

It is not known when the current owner acquired tax lot 1200 (map 16-45-30.4). Based

on the applicant's submittal, it is not known if the claim is valid.

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.

Map 16-45-31, tax lot 102: 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.

Map 16-45-30.4, tax lot 1200: The minimum lot size and restrictions on new dwellings may be exempt regulations and the record is not sufficient to determine the validity of the claim for this property.

CONCLUSION

Map 16-45-31, tax lot 102: It appears this is not a valid claim.. The minimum lot size and dwelling restrictions can not be waived for the current owner.

Map 16-45-30.4, tax lot 1200: There is insufficient evidence in the record to determine the validity of this claim.

RECOMMENDATION

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