

**Memo Date:** May 3, 2007  
**Hearing Date:** May 22, 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 (PA06-7287, Rosboro87)

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## **BACKGROUND**

**Applicant:** Rosboro Lumber Co., LLC

**Current Owner:** 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., 10-26-06).

**Agent:** William R. Potter and Michael M. Reeder

**Map and Tax lot(s):** 16-45-31, portion of tax lot 101 and portion of tax lot 102.

**Acreage:** 81 acres (applicant's estimate)

**Current Zoning:** F1 (Nonimpacted Forest Land)

**Date Property Acquired:** Map 16-45-31, tax lot 101 (a portion):

Rosboro Lumber Co. LLC – August 20, 1998, Bargain & Sale Deed, Reel 2465R, No. 9875163 ("Parcel 1" in deed).

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

Unknown. There is no deed in the record linking the claimant, Rosboro Lumber Co. LLC, to an interest or ownership in tax lot 102.

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

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

**Land Use Regulations in Effect at Date of Acquisition:**

Map 16-45-31, tax lot 101 (a portion): F1 Nonimpacted Forest Land

Rosboro Lumber Co. LLC – August 20, 1998, Bargain & Sale Deed, Reel 2465R, No. 9875163 (“Parcel 1” in the deed).

The applicant’s description “a portion of tax lot 101” is insufficient to identify either the exact acreage on which the claim is being filed or to identify a conveyance history for that acreage.

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

The applicant’s description “a portion of tax lot 102” is insufficient to identify either the exact acreage on which the claim is being filed or to identify a conveyance history to Rosboro Lumber Co. LLC, for that acreage.

**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 Co. LLC acquired an interest in Map 16-45-31, tax lot 101 on August 20, 1998, when it was zoned F1 Nonimpacted Forest Land (Bargain & Sale Deed, Reel 2465R, No. 9875163 [“Parcel 1” in the deed]).

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.

It is unknown when Rosboro Lumber Co. LLC acquired an interest in tax lot 102 (map 16-45-31).

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 101 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 have not been provided by the applicants.

The claimant is alleging a reduction in fair market value is \$2,465,000, based on the

submitted appraisal for an "165.40-Acre Vacant F1-Zoned Parcel – McKenzie North Property".

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 101 (map 16-45-31), these regulations can not be waived.

It is not known when the current owner, Rosboro Lumber Co. LLC, acquired tax lot 102 (map 16-45-31). 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 101: 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 102: The minimum lot size and restrictions on new dwellings may be exempt regulations, however the record is not sufficient to determine the validity of the claim for this property.

### **CONCLUSION**

Map 16-45-31, a portion of tax lot 101: It appears this is not a valid claim.

Map 16-45-31, a portion of tax lot 102: 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.