

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 (PA06-7205, Vandercook1)

BACKGROUND

Applicant: Nancy Vandercook

Current Owners: Nancy Ruth Vandercook, Nancy Vandercook and John Vandercook

Agent: none

Map and Tax lots: 16-09-36, tax lots # 300, 301, 302, 303, 304, 305, 1000

Acreage: approximately 160 acres

Current Zoning: F2 (Impacted Forest Land) on tax lot #1000
F1 (Non-impacted Forest Land) on tax lots #300, 301, 302, 303, 304, and 305

Date Property Acquired: June 25, 1951 (D # unknown) for the Vandercook family
May 26, 1998 for current owners (Will date, irrevocable trust)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: unzoned for the Vandercook family; F2 and F1 for the current owners

Restrictive County land use regulation: Minimum parcel size of eighty acres, income criteria, and limitations on new dwellings in the F1 and F2 (Non-impacted Forest Land and Impacted Forest Land) zones (LC 16.210 & 16.211).

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

The current owners are Nancy Ruth Vandercook, Nancy Vandercook and John Vandercook. The Vandercook family appears to have acquired an interest in the property on June 25, 1951, when it was unzoned (D # unknown). Currently, the property is zoned F1 and F2.

In an unidentified year, the property was placed into a Trust. The Trust is considered a new owner. The status of record title report states the trust is not revocable, and that Nancy Ruth Vandercook is the sole trustee. Clarence Vandercook, Nancy Ruth's husband, died on May 26, 1998. The trust document is not in the application.

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 acquired by the Vandercook family. The minimum lot size and limitations on new dwellings in the F1 and F2 zone prevent the current owners from developing the property as could have been allowed when the family acquired the property. Because the minimum lot size and dwelling restrictions were applicable when the current owners acquired the property in 1998, these regulations can not be waived.

The applicant has not submitted competent evidence of a reduction in fair market value from enforcement of a land use regulation and the County Administrator has not waived the requirement for an appraisal.

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 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.

CONCLUSION

It appears this is not a valid claim, and 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.