

Memo Date: April 30, 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 (PA06-7273, Whitaker)

BACKGROUND

Applicant: Irwin C. Whitaker, Trustee of The Irwin C. Whitaker Trust & The Helen P. Whitaker Credit Shelter Trust

Current Owner: Irwin C. Whitaker, Trustee of The Irwin C. Whitaker Trust & The Helen P. Whitaker Credit Shelter Trust

Agent: Micheal M. Reeder, Arnold Gallagher Saydack et al

Map and Tax lot(s): 16-03-32-14 tax lot 2000 and a portion 16-03-32-11 tax lot 2500 (specifically, the southern 9 acre portion of tax lot 2500 which falls outside of the City Limits of Coburg)

Acreage: Approximately 19 acres

Current Zoning: E30 (Exclusive Farm Use), /FP (Floodplain Combining Zone)

Date Property Acquired: January 4, 1963 (Circuit Court Decree #15282)

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 Thirty acres and limitations on new dwellings in the E300 (Exclusive Farm Use) zone (LC 16.212).

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 subject property is currently owned by The Irwin C. Whitaker Trust and The Helen P. Whitaker Credit Shelter Trust. Irwin C. Whitaker acquired an interest in the property on January 4, 1963 (Circuit Court Decree #15282). On that date, the property was unzoned. In 1991 and 2002, the property was conveyed into The Irwin C. Whitaker Trust and The Helen P. Whitaker Credit Shelter Trust. The trusts are considered new owners but because Irwin C. Whitaker is the Trustee of both trusts and he maintains an undivided interest in The Irwin C. Whitaker Trust, a revocable trust, his ownership interest is continued.

Currently the property is zoned E30.

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 current owner. The minimum lot size and limitations on new dwellings in the E30 zone prevent the current owner from developing the property as could have been allowed when he acquired it.

The applicant has submitted a Comparative Market Analysis alleging a reduction in the fair market value of the property in the amount of \$3,915,524. However, this analysis does not analyze the value of the portion of tax lot 2500 which lies inside the City Limits of Coburg. Because the valuation analysis does not examine the property as a whole it appears insufficient.

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 in the E30 zone do not appear to be exempt regulations.

The regulations found within the /FP (Floodplain Combining Zone) of LC16.244 are exempt regulations as defined by LC 2.710 (2) and cannot be waived.

CONCLUSION

There is insufficient evidence 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.