

Supplemental Memo

Memo Date: April 16, 2007

Hearing Date: May 8, 2007 (Continued from April 3, 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 (PA06-7102, Carpenter)

BACKGROUND

Applicant: Edward B. Carpenter and Fern L. Carpenter

Current Owner: Carpenter Loving Trust

Agent: None

Map and Tax lot(s): 21-03-04 #2200, 21-03-05 #2000, 21-03-05 #2100

Acreage: Approximately 59 acres in total; #2000 is 8 acres, #2100 is 19 acres and 2200 is 32 acres

Current Zoning: E40, LC 16.212 (Exclusive Farm Use), /FP, LC16. 244 (Floodplain Combining Zone), LC 16.254 (Greenway Development Permit), LC 16.253 (Riparian Regulations)

Date Property Acquired: December 30, 1975, the property is acquired by Edward B. Carpenter and Fern L. Carpenter (WD #8211013))

August 29, 1991, the property is placed into the Carpenter Loving Trust (B&SD #9141979)

Date claim submitted: November, 28 2006

180-day deadline: May 27, 2007

Land Use Regulations in Effect at Date of Acquisition: FF20 (Farm-Forestry 20 District)

Restrictive County land use regulation: Minimum parcel size of forty acres and limitations on new dwellings in the E40 (Exclusive Farm Use) zone (LC 16.212).

This claim was originally heard on April 3, 2007. The Board left the record open until April 24, 2007 and continued the hearing until May 8, 2007, to allow for additional information to be submitted concerning the nature of the Carpenter Loving Trust and the alleged reduction in value. The applicants submitted additional information addressing the value reduction on March 30, 2007. No new information has been provided regarding the Trust.

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 still unclear if the ownership interests of Edward B. Carpenter and Fern L. Carpenter have been maintained because the applicants have failed to supply information concerning the revocability of the Carpenter Loving Trust.

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

The applicants have provided additional information concerning value reduction but this information appears inadequate. Initially, the applicants provided a statement claiming that "5 acre home sites are worth \$150,000 each." They have now submitted a list of comparable sales in apparent support of that statement but this approach is ineffective for two reasons. First, when the property was acquired in 1975 by Edward B. Carpenter and Fern L. Carpenter, 5 acre lots were not permitted in the FF20 zone. Therefore, any claim based on the hypothetical development of 5 acre parcels is not valid. Second, the comparables provided are for developed, 1-2 acre parcels and lack any explanatory statement from a market analyst.

CONCLUSION

The applicant failed to provide the evidence necessary to determine the validity of this claim.

RECOMMENDATION

The County Administrator recommends the Board direct him to deny the claim.