

Memo Date: January 24, 2007
Order Date: February 13, 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 (PA06-6612, Henton)

BACKGROUND

Applicant: DR Henton Inc.

Current Owner: DR Henton, Inc.

Agent: Michael Evans

Map and Tax lot: 17-01-20-20 #200 and 300; 17-01-20-30 #300

Acreage: 183 acres

Current Zoning: E60 (Exclusive Farm Use)

Date Property Acquired: December 31, 1991 (WD #9163586)

Date claim submitted: September 15, 2006

180-day deadline: March 14, 2007

Land Use Regulations in Effect at Date of Acquisition: E60 (Exclusive Farm Use) zone, LC 16.212

Restrictive County land use regulation: LC 16.212(7)(f)

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 owner D.R. Henton Inc., acquired an interest in the property on December 31, 1991 when it was zoned E60 (Exclusive Farm Use).

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

The property was zoned E60 (Exclusive Farm Use) when it was acquired by the current owners and is still zoned E60.

The applicant alleges that a reduction in value because the E60 zone was amended in 2004 and the new regulation does not allow a dwelling on the property. However, it appears a dwelling was not allowed in 1991 either. Because of this, there does not appear to be a reduction in value.

The applicant states the restrictive regulation is LC 16.212(7)(f). It is the "nonfarm dwelling" provision. It allows a dwelling on a legal lot in the E60 zone if the property is not comprised of a majority of low value farm soils and the dwelling is sited on land generally unsuitable for farm or livestock production. The applicant has demonstrated the property is comprised of a majority of high value soils and does not comply with the current standards for a "nonfarm dwelling". In addition, it does not appear the property would have met the 1991 criteria for a dwelling either. Those standards required the legal lot that contains the nonfarm dwelling was created between January 1, 1948 and July 1, 1983. The subject property is comprised of three legal lots that were created on September 19, 1996 by partition plat #96-P0874.

3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

The "nonfarm dwelling" criteria of LC 16.212(7)(f) do not appear to be exempt regulations.

CONCLUSION

It appears this is not a valid claim.

RECOMMENDATION

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