

Memo Date: January 24, 2007
Order Date: February 13, 2007



TO: Board of County Commissioners

DEPARTMENT: Public Works Department/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 (PA06-6635, Renaghan)

BACKGROUND

Applicant: Victor Renaghan

Current Owner: Victor and Linda Renaghan

Agent: Michael Farthing

Map and Tax lot: 16-12-15 #300

Acreage: 186 acres

Current Zoning: DR (Destination Resort) and NR (Natural Resource)

Date Property Acquired: December 14, 1980 (WD #8063574)

Date claim submitted: September 20, 2006

180-day deadline: March 19, 2007

Land Use Regulations in Effect at Date of Acquisition: FM (Forest Management) zone

Restrictive County land use regulation: Limitations on new dwellings in the DR (Destination Resort) and NR (Natural Resource) zones. LC 16.213 and LC 16.232.

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 Victor and Linda Renaghan. They acquired an interest in the property on December 14, 1980 (WD #8063574) when it was zoned FM (Forest Management). Currently, it is split-zoned DR (Destination Resort) and NR (Natural Resource).

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

The property was zoned Forest Management when it was acquired by the current owners on December 14, 1980. That zone allowed one dwelling on a legal lot. In 2002-2003, the claimant applied for legal lot verifications to determine how many lawfully created parcels or lots existed within the property boundaries. The Land Management Division determined that tax parcel 300 is comprised of 13 legal lots.

Currently, the NR (Natural Resource) zone pursuant to LC 16.213(3) Special Uses – Planning Director allows (a) “Single-family dwelling(s) or mobile home(s) for residential purpose for watchman, caretaker or operator in conjunction with use permitted in the district” , or (4) Special Uses – Hearings Official Approval (b) “Single family dwelling or mobile home and accessory structures.” The NR zone per LC 16.213 does not include an “Area” subsection addressing division standards or minimum lot sizes.

Currently, the DR (Destination Resort) zone allows qualified residential development per Lane Code 16.232(2) Permitted Uses (a) “Living accommodations, including lodges, hotels, motels, cabins, condominiums, single family and multifamily dwelling units, and structures, such as garages normally subordinate to such accommodations, provided at least 75 percent of the living accommodations shall be for other than year-round residents.” The DR zone does not have a minimum lot size but it does limit development in LC 16.232(6) Area “The ratio of developed (structures, paved surfaces, facilities) to undeveloped land shall not exceed 50 percent.”

The Board needs to consider how the DR zone regulations have increased the property value and need to be taken into consideration when discussing the restrictive limitations of the NR zone. The claim has provided value reduction analysis only on the NR portion of the property without considering the property value increase from implementation of the DR zone regulations. Without this, the valuation analysis is not adequate.

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

The requirement for a special use permit for a dwelling under the current zoning does not appear to be an exempt regulation.

CONCLUSION

There is not sufficient evidence to determine the validity of this claim.

RECOMMENDATION

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