

## Supplemental Memo

**Memo Date:** May 9, 2007

**Hearing Date:** June 20, 2007 (Continued from May 15, 2007)



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**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 (PA06-7253, Shelley)

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### BACKGROUND

**Applicants:** Lynnette G. & Eric A. Seitz and Zora M. Struder

**Current Owner:** Shelley Family Trust

**Agent:** Donald Joe Willis

**Map and Tax lots:** 18-02-27, #600

**Acreage:** approximately 112 acres

**Current Zoning:** E25 (Exclusive Farm Use)

**Date Property Acquired:** May 27, 1993 (BSD # 9333342)

**Date claim submitted:** December 1, 2006

**180-day deadline:** May 30, 2007

**Land Use Regulations in Effect at Date of Acquisition:** E25 on May 27, 1993

**Restrictive County land use regulation:** Minimum parcel size of twenty five acres and limitations on new dwellings in the E25 (Exclusive Farm Use) zone (LC 16.212).

This claim was originally heard on May 15, 2007. The applicant submitted supplemental information into the record at the hearing on May 15, 2007. The Board continued the discussion of this claim to the June 20, 2007 public hearing in order to allow staff the opportunity to evaluate the information received at the May 15<sup>th</sup> hearing and the claimant time to submit additional information and have the Board reconsider staff's recommendation. The Board requested all new information to be submitted to Lane County by June 5, 2007. The applicant submitted additional information on June 4, 2007.

## **ANALYSIS**

The current owner is the Shelley Family Trust. The Shelley family appears to have acquired an interest in the property prior to 1938 and 1941, when it was unzoned. The claimants submitted an unlegible copy of what appears to be the original deeds. No deed history is provided. Currently, the property is zoned E25.

On May 27, 1993, the property was placed into a revocable Trust with Mabel Shelley as the trustee. The trust is considered a new owner. In the trust, Mabel Shelley identified John G. Shelley and Zora M. Studer as her family. Zora Struder was listed as successor trustee. The beneficiaries names are not known, although an affidavit by Zora Struder indicates she and John Shelley were the two beneficiaries and her brother John is now deceased. Other details of the ownership history and the current status of the trust remain unclear.

The applicant Lynnette Seitz is Zora Struder's daughter, and Eric Seitz is Lynette's husband. They are not listed in the trust as family, nor on any of the deeds provided in the application, therefore, they do not appear to have a legal ownership interest in the property. The supplemental information provided by the agent on May 15, 2007 says the Shelley Family Trust is in the shoes of Mabel E. Shelley and disputes the County position that the trust is a new owner, and starts a new date of acquisition. Mabel passed away in February 2004.

The property was unzoned when it was acquired by the Shelley family. The minimum lot size and limitations on new dwellings in the E25 zone would prevent the Shelley family from developing the property as could have been allowed when they acquired it. The alleged reduction in fair market value is \$2,000,000, based on the submitted appraisal. Because the minimum lot size and dwelling restrictions were applicable when the current owner, the Shelley Family Trust acquired the property in 1993, these regulations can not be waived.

## **CONCLUSION**

It still appears this is not a valid claim for the current owner, the Shelley Family Trust, as both trustees are dead. It appears this could be a valid claim for the Shelley family, however, no deed history of ownership transactions has been provided, therefore, the minimum lot size and dwelling restrictions can not be waived for the current owner, the Shelley Family Trust. The applicant has also failed to pay the processing fee.

## **RECOMMENDATION**

The additional information submitted at the hearing was not sufficient to reverse the original recommendation of the County Administrator for the Board to direct him to deny the claim.