

Memo Date: April 11, 2007
Hearing Date: May 1, 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 (PA06-7341, McDonald)

BACKGROUND

Applicant: Bruce and Berneda McDonald

Current Owner: Bruce and Berneda McDonald

Agent: Ron Funke

Map and Tax lot(s): 20-04-08, #101

Acreage: 170 acres

Current Zoning: F-1 (Nonimpacted Forest Land)

Date Property Acquired: April 30, 1970 (WD #5570)

Date claim submitted: December 4, 2006

180-day deadline: June 2, 2007

Land Use Regulations in Effect at Date of Acquisition: unzoned

Restrictive County land use regulation: Minimum parcel size eighty acres and limitations on new dwellings in the F-1 (Nonimpacted Forest Zone) zone (LC 16.210).

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 Bruce and Berneda McDonald. Bruce and Berneda McDonald acquired an interest in the property on April 30, 1970, when it was unzoned (WD #5570). Currently, the property is zoned F-1.

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 owners. The minimum lot size and limitations on new dwellings in the F-1 zone prevent the current owners from developing the property as could have been allowed when they acquired it.

The applicant has not submitted competent evidence of a reduction in fair market value from enforcement of a land use regulation and the County Administrator has not waived the requirement for an appraisal.

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 do not appear to be exempt regulations.

CONCLUSION

It appears this is not a valid claim.

RECOMMENDATION

If additional information is not submitted at the hearing, the County Administrator recommends the Board direct him to deny the claim.