

**Memo Date:** April 23, 2007  
**Hearing Date:** 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 (PA06-7293, Hartzell)

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## **BACKGROUND**

**Applicant:** Elizabeth C. Hartzell

**Current Owner:** Elizabeth C. Hartzell and Harold R. Hartzell, Jr.

**Agent:** None

**Map and Tax lot(s):** 20-02-06 tax lots 2100, 2300 and 2400

**Acreage:** Approximately 315 acres

**Current Zoning:** F2 (Impacted Forest)

**Date Property Acquired:** March 28, 2002 (SWD #2002-024248)

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

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

**Land Use Regulations in Effect at Date of Acquisition:** F2 (Impacted Forest)

**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings and "education centers" in the F2 (Impacted Forest) zone (LC 16.211).

## **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**

Elizabeth C. Hartzell and Harold R. Hartzell, Jr. are the current owners of the subject

property. They acquired an interest in the property on March 28, 2002(SWD #2002-024248). In 2002, the property was zoned F2 and is still zoned as such.

The applicant claims that she has maintained an interest in the property since May 25, 1972, but it is unclear from the lot book service provided if this is accurate. From the information provided it appears that there may have been an intervening ownership in the property. The applicant has not provided additional information (missing deeds or title report) to clarify this issue.

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

The applicant has submitted a statement alleging a reduction in the fair market value of the property in the amount of \$1,200,000. This is not considered 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 and "education centers" in the F2 (Impacted Forest) zone do not appear to be exempt regulations, but it is unclear if they can be waived for the current owner.

**CONCLUSION**

There is insufficient evidence to determine the validity of this claim. The applicant has not provided the necessary information to show that she has maintained an unbroken interest in the property since 1972 and she has not provided any competent evidence of value reduction. The applicant also indicated in a phone conversation with staff on 4/23/07 that she would like to withdraw the claim but she has not made this request in writing.

**RECOMMENDATION**

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