

Memo Date: April 20, 2007
Hearing Date: May 15, 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 (PA06-7168, Pavelec)

BACKGROUND

Applicant: Donna Pavelec

Current Owner: Donna Pavelec

Agent: None

Map and Tax lot(s): 18-04-12-40 tax lot 3200

Acreage: Approximately 10.5 acres

Current Zoning: RR5 (Rural Residential)

Date Property Acquired: June 9, 1994 (WD #9445935)

Date claim submitted: November 30, 2006

180-day deadline: May 29, 2007

Land Use Regulations in Effect at Date of Acquisition: RR5 (Rural Residential)

Restrictive County land use regulation: Current rural residential zone requirements of LC 16.290 which do not allow for a 2nd single family dwelling on a legal lot as was permitted under LC 16.231(2)(A) on June 9, 1994.

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

Donna Pavelec is the current owner of the subject property. She acquired an interest in the property on June 9, 1994 (WD #9445935). On that date, the property was zoned RR5 and is still zoned as such.

The current owner alleges that in 1994, she would have been able to place a second single family dwelling on her property under the provisions of LC 16.231(2)(A). However, for this provision to have been possible in 1994, the legal lot that the owner sought to place a 2nd dwelling on would have needed to be at least 10 acres in size. It appears that in 1994 the legal lot in question, Parcel 1 of Partition #8238618 was only 5.39 acres in size. For this reason it does not appear that the current owner would have qualified for a 2nd dwelling in 1994.

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

The county has not enforced a restrictive regulation which has limited the current owner's ability to develop the property as would have been possible when she acquired it in 1994. Therefore, it appears that no reduction in the fair market value of the property has occurred. Furthermore, it appears likely that under the current regulations the claimant could now develop a second dwelling on her property and, through one or more property line adjustments, achieve the same result she is seeking through this claim.

In addition, the applicant has not submitted any 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 restrictions on the number of dwellings permitted per legal lot in the RR5 zone do not appear to be exempt regulations but they can not be waived for the current owner. The claimant has not identified any other restrictive land use regulations that allegedly reduce the fair market value of the property.

CONCLUSION

On April 25, 2007, the applicant requested this application to be placed on hold and authorized a 180 day processing time waiver. No additional information has been received as of the date of this report.

After analysis of the claim, it appears this is not a valid claim.

RECOMMENDATION

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