

Memo Date: April 23, 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 (PA06-7246, Petersdorf)

BACKGROUND

Applicant: Darrell J. Petersdorf, Sr. through his appointees: Vickie R. Bradfield, Power of Attorney for Darrell J. Petersdorf Sr. and Darrell J. Petersdorf Jr., Power of Attorney for Darrell J. Petersdorf Sr.

Current Owner: Petersdorf Living Trust

Agent: Harry Taylor

Map and Tax lot(s): 17-05-06 tax lot 2400 and 17-06-01 tax lot 2000

Acreage: Approximately 150 acres

Current Zoning: Tax lot 2000 is zoned F2 (Impacted Forest), tax lot 2400 is zoned E40 (Exclusive Farm Use)

Date Property Acquired: April 18, 1959, the property was acquired by Darrell J. Petersdorf, Sr. (Contract #66974 / WD #62938)

February 25, 1991, the property was placed into the Petersdorf Living Trust (B&SD #9110687)

August 4, 2006, Darrell Petersdorf, Sr. was succeeded as Trustee of the Petersdorf Living Trust (Affidavit of Successor Trustee)

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition: F2 and E40

Restrictive County land use regulation: Minimum parcel size of eighty acres and limitations on new dwellings in the F2 (Impacted Forest) zone (LC 16.211) and the minimum parcel size of forty acres and limitations on new dwellings in

the E40 (Exclusive Farm Use) zone (LC 16.212).

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 owner of the subject property is the Petersdorf Living Trust.

Darrell J. Petersdorf, Sr. and Gladys E. Petersdorf acquired an interest in the property on April 18, 1959 (Contract #66974 / WD #62938). On February 25, 1991, the property was placed into The Petersdorf Living Trust (B&SD #9110687). Darrell J. Petersdorf, Sr. and Gladys E. Petersdorf were the creators and original Trustees of the Trust. Gladys E. Petersdorf is now deceased and due disability, Darrell J. Petersdorf, Sr. was succeeded as Trustee by Vickie R. Bradfield and Darrell J. Petersdorf Jr. on August 4, 2006, (Affidavit of Successor Trustee of the Petersdorf Living Trust).

The Trust is considered a new owner and because Darrell J. Petersdorf, Sr. is no longer the Trustee, his ownership interest has ended. The current owners obtained their interest in the property on August 4, 2006. On that date, tax lot 2000 was zoned F2 (Impacted Forest) and tax lot 2400 was zoned E40 (Exclusive Farm Use). The zoning has not changed since August 4, 2006.

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

The minimum lot size and restrictions on new dwellings in the F2 and E40 zones have not changed since the current owner acquired the property and the applicants have not submitted competent evidence demonstrating that a reduction in fair market value of the property has occurred from the enforcement of a land use regulation.

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 in the E40 and F2 zones do not appear to be exempt regulations but they cannot be waived for the current owner.

CONCLUSION

It appears this is not a valid claim.

RECOMMENDATION

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