

Supplemental Memo



Memo Date: May 7, 2007

Hearing Date: May 22, 2007

(Continued from April 17, 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 (PA06-7181, Cone Investments)

BACKGROUND

Applicant: Cone Investments Limited Partnership

Current Owner: Cone Investments Limited Partnership

Agent: Barry D. Smith

Map and Tax lot(s): 18-03-23, tax lot 100

Acreage: 105.36 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: March 10, 1993 (Bargain and Sale Deed, Reception No. 93-14939).

Date claim submitted: November 30, 2006

180-day deadline: May 29, 2007

Land Use Regulations in Effect at Date of Acquisition: E40 (Exclusive Farm Use)

Restrictive County land use regulation: Minimum parcel size of forty acres and limitations on new dwellings in the E40 (Exclusive Farm Use) zone (LC 16.212).

This claim was originally heard on April 17, 2007. The Board continued the discussion of this claim to the May 22, 2007 public hearing in order to allow the claimants time to submit additional information and have the Board reconsider the recommendation.

ANALYSIS

On April 30, 2007, the agent (Barry Smith) for the applicant submitted written testimony for consideration of the claimant's arguments regarding the validity of the claim and effective date of acquisition of Cone Investments. The supplemental statement argues that the transfer to the limited partnership did not create a new owner. Staff disagree with the claimant and find that conveyance of interests in the property when the property was transferred to the Cone Investments Limited Partnership on March 10, 1993 appears to have resulted in a new owner. The grantor in that conveyance was not a "family" member. The claimant has not identified any restrictive regulations enacted since the current owner acquired the property in 1993 when it was already zoned E-40.

CONCLUSION

It appears this is not a valid claim for Cone Investments Limited Partnership.

RECOMMENDATION

If additional information is not submitted at the continued hearing on May 22nd, 2007; the County Administrator recommends the Board direct him to deny the claim.