

**Memo Date:** May 2, 2007  
**Hearing Date:** May 22, 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 (PA06-7302, Davidson302)

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## **BACKGROUND**

**Applicant:** Davidson Industries, Inc., an Oregon Corporation

**Current Owner:** Davidson Industries, Inc.

**Agent:** William R. Potter & Micheal M. Reeder

**Map & Tax lots:** 18-10-07 #201; 18-10-08 #200, 18-10-08-30 #100, 201, 300, 400, 401

**Acreage:** approximately 126 acres

**Current Zoning:** F1 (Non-Impacted Forest Land) on tax lot #201;  
RI (Rural Industrial) for the rest of the property

**Date Property Acquired:** July 19, 1974 for 18-10-07 #201 & 18-10-08 #200 (WD#7441094); July 19, 1974 for 18-10-08-30 #401 (WD #7441093)

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

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

**Land Use Regulations in Effect at Date of Acquisition:** unzoned

**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings in the F1 (Non-Impacted Forest Land) zone (LC 16.210) and limitations on uses and development in the RI (Rural Industrial) zone (LC 16.292).

## **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 is Davidson Industries, Inc., an Oregon Corporation. Davidson Industries, Inc. acquired interest in 18-10-07 #201 & 18-10-08 #200 (WD#7441094) and 18-10-08-30 #401 (WD #7441093) on July 19, 1974. The date the current owners acquired the rest of the property; 18-10-08-30 #100, 201, 300, and 400, is not known because no deeds for these tax lots were included in the application.

Currently, the property is zoned RI.

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

The property appears to have been entirely unzoned when it was acquired by Davidson Industries Inc. The minimum parcel size of eighty acres and limitations on new dwellings in the F1 zone and use and development limitations in the RI zone could prevent Davidson Industries from developing the property as could have been allowed when it was acquired. The alleged reduction in fair market value is \$850,000, based on the submitted Comparative Market Analysis (CMA) which identifies this M37 claim as the 'Fredrickson Hill' site.

The County Commissioners have accepted CMA's as competent evidence of valuation on previous claims. Because of this, the County Administrator has waived the requirement for an appraisal.

The applicant is also claiming that the following sections of Lane Code have restricted the use of the subject property:

Goal 4 and Goal 5 policies of the RCP except for the portion of Goal 4, Policy 8 pertaining to fire safety requirements. No evidence has been provided that demonstrates how these policies have lowered the fair market value of the property.

LC13.050, 13.120 and 13.400 – These provisions apply to subdivision and partitioning of property. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC15.055(1), 15.055(2)(c), 15.055(3)-(7) and 15.105-.125 – These provisions apply to road and driveway approach spacing standards and building setbacks from roads. No evidence has been provided that demonstrates how these regulations have lowered the fair market value of the property.

LC 16.210, except for the fire safety requirements in LC 16.210 (6)(c) – These provisions are not applicable to RI (Rural Industrial) zoned land.

**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 F1 zone and use and development restrictions in the RI zone do not appear to be exempt regulations.

**CONCLUSION**

It appears this could be a valid claim. Deed(s) showing the date the current owner acquired 18-10-08-30 #100, 201, 300, and 400 need to be submitted.

**RECOMMENDATION**

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