

Supplemental Memo



Memo Date: May 4, 2007

Meeting Date: May 22, 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 (PA06-6896, Green2)

BACKGROUND

Applicants: Steven R. & Nichole Green

Current Owners: Steven R. & Nichole Green & Ed Chernycki

Agent: Barry D. Smith

Map and Tax lot: 17-04-30 tax lot #1400

Acreage: approximately 23 acres

Current Zoning: E40 (Exclusive Farm Use)

Date Property Acquired: February 25, 1998

Date Claim Submitted: November 3, 2006

180-day Deadline: May 2, 2007

Land Use Regulations in Effect at Date of Acquisition: E40 (Exclusive Farm Use) zone LC 16.212.

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 March 13 and April 6, 2007. The Board continued the claim to May 22, 2007 to allow the applicants to submit more information. Additional information was provided on May 1, 2007.

ANALYSIS

The claimants submitted additional information on valuation on March 30, 2007. They provided valuation analysis in the form of an appraisal that alleges a reduction in fair market value of \$176,500.

The applicants submitted additional information on ownership and dates of acquisition on May 1, 2007 and requested the record be held open until at least June 22, 2007, to allow time to gather and submit additional ownership information. The information asserts Ed Chernicki has an ownership interest in the property, and in addition, requests Measure 37 relief on three other tax lots he owns; 1403, 1407, and 1408. Those tax lots may not have been legal lots upon partitioning. Mr. Chernicki transferred his interest in tax lot 1400 in 1998.

The deed information provided by the applicant shows that in 1998, the property was placed into a Trust. The Trust is not revocable to Steven and Nichole, the grantors, it is a custodian trust for their heirs. The ownership interests of other individuals does not seem to assist the original applicants.

The property was zoned E40 in 1998 when it was acquired by family of the current applicants. The minimum lot size and limitations on new dwellings in the E40 zone were applicable when the current owners acquired the property, therefore, these regulations appear to be exempt and cannot be waived.

CONCLUSION

Because the minimum lot size and dwelling restrictions were applicable when the current owners acquired the property in 1998, these regulations cannot be waived.

RECOMMENDATION

The County Administrator recommends the Board deny the claim.