

**Memo Date:** May 2, 2007  
**Hearing 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 (PA06-7281 Rosboro81)

---

### **BACKGROUND**

**Applicant:** Rosboro Lumber Co., LLC  
**Current Owner:** Rosboro Lumber Co. LLC  
**Agent:** William R. Potter and Micheal M. Reeder  
**Map and Tax lot:** 16-45-31, #100  
**Acreage:** approximately 213 acres  
**Current Zoning:** F1 (Nonimpacted Forest Land)  
**Date Property Acquired:** August 20, 1998 (BSD# 9875163)  
**Date claim submitted:** December 1, 2006  
**180-day deadline:** May 30, 2007  
**Land Use Regulations in Effect at Date of Acquisition:** F1 (Nonimpacted Forest Land)  
**Restrictive County land use regulation:** Minimum parcel size of eighty acres and limitations on new dwellings in the F1 (Nonimpacted Forest Land) zone (LC 16.210).

### **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**

Rosboro Lumber Company appears to have acquired an interest in the property on October 26, 1960, when it was unzoned (QCD #14637 and D #35973, Book 344, page223). At the time, "Rosboro Lumber Company" was identified on the deed as "a co-partnership consisting of B. S. Cole, Teden H. Cole, R. T. Watts, Martha B. Watts, Spencer Collins and Vernon Williams".

The current owner is the Rosboro Lumber Co. LLC. The limited liability company was registered with the Oregon Secretary of State – Corporation Division on December 30, 1995 when the subject property was zoned F1 Nonimpacted Forest Land. The

applicant has not submitted any documentation on the structure or current owners of the LLC and the relationship with the 1948 co-partnership. Currently, the property is zoned F1.

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

The property was unzoned when it was acquired by the Rosboro Lumber Company co-partnership in 1960. It was zoned F1 when it was acquired by the current owners, Rosboro Lumber Co. LLC in 1998.

The minimum lot size and limitations on new dwellings in the F1 zone prevent the current owners from developing the property as could have been allowed when the co-partnership acquired it in 1960. However, the connection between the owners and the conveyance deeds has not been provided by the applicant. The alleged reduction in fair market value is \$2,488,330, based on the submitted appraisal.

It appears the minimum lot size and dwelling restrictions of the F1 zone (LC16.210) were applicable when the current owner acquired the property in 1998, these regulations can not be waived.

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

LC13.050 – 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.

LC15.070, 15.080, 15.137 & 15.138 – 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.

**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 appear to be exempt regulations, and it appears from the record that 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**

It appears this may not be a valid claim. The minimum lot size and dwelling restrictions can not be waived for the current owner.

**RECOMMENDATION**

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