

Memo Date: May 3, 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 (PA06-7282, USR Company, LLC)

BACKGROUND

Applicant: USR Company, LLC

Current Owner: USR Company LLC, as to a portion; Rosboro Lumber Company, a corporation, as to a portion; Rosboro Lumber Company, a co-partnership, as to a portion; Rosboro Lumber Company LLC, an Oregon Limited Liability Company, as to a portion. (ref: Cascade Title Co., 10-26-06).

Agent: William R. Potter and Michael M. Reeder

Map and Tax lot(s): 16-45-31, part of tax lots 101 and 102.

Acreage: 156 acres (applicant's estimate)

Current Zoning: F1 (Nonimpacted Forest Land)

Date Property Acquired:

Map 16-45-31, part of tax lot 101:

Rosboro Lumber Co. LLC – August 20, 1998, Bargain & Sale Deed, Reel 2465R, No. 9875163 ("Parcel 1" in deed). Refer to claim PA 06-7287.

USR Company, LLC – Unknown. The applicant's narrative (page 1 – cover page) in the submittal refers to a conveyance from "Rosboro Lumber Co. LLC; December 29, 1999 to USR Co., LLC"; and the applicant's Measure 37 Claim Form, page 2, refers to "3. Deed Recording No. 2000-15178, dated 29, 1999 (to USR Co., LLC)". No "deed" documenting either reference in the record was submitted as evidence.

Map 16-45-31, part of tax lot 102:

USR Company, LLC - Unknown. There is no deed in the record linking the claimant, USR Company, LLC, to an interest or ownership in tax lot 102.

Date claim submitted: December 1, 2006

180-day deadline: May 30, 2007

Land Use Regulations in Effect at Date of Acquisition:

Map 16-45-31, a part of tax lot 101: F1 Nonimpacted Forest Land (1999)

The applicant's description "a part of tax lot 101" is insufficient to identify either the exact acreage on which the claim is being filed or to identify a conveyance history to USR Company, LLC, for that acreage.

Map 16-45-31, a part of tax lot 102: F1 Nonimpacted Forest Land (1999)

The applicant's description "a part of tax lot 102" is insufficient to identify either the exact acreage on which the claim is being filed or to identify a conveyance history to USR Company, LLC, for that acreage.

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

USR Company, LLC is an Oregon limited liability company that was registered with the Oregon Secretary of State – Corporation Division on December 20, 1996, 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 Rosboro Lumber Company, co-partnership or the 1998 Rosboro Lumber Co. LLC.

It is unknown when USR Company, LLC acquired an interest in tax lots 101 and 102 (map 16-45-31).

Currently, the properties are zoned F1.

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

Map 16-45-31, tax lot 101 was zoned F1 when it was allegedly acquired by USR

Company, LLC in 1999 (2000). The claimant alleges the minimum lot size and limitations on new dwellings in the F1 zone prevent USR Company, LLC from developing the property as could have been allowed when they supposedly acquired it from Rosboro Lumber Co., LLC in 1999. However, the connection between Rosboro Lumber Co. LLC and USR Company, LLC and the conveyance deeds have not been provided by the applicants.

The claimant is alleging the reduction in fair market value is \$2,348,760, based on the submitted appraisal for an "154.90-Acre Vacant F1-Zoned Parcel – McKenzie USR Property".

It appears the minimum lot size and dwelling restrictions of the F1 zone (LC 16.210) were applicable when the current owner allegedly acquired "a part of tax lots 101 and 102" (map 16-45-31) in 1999, these regulations can not be waived.

Based on the applicant's submittal, it is not known if the claim is valid.

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.

3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

Map 16-45-31, part of tax lot 101: The minimum lot size and restrictions on new dwellings ~~do not appear to be exempt regulations,~~ however and it appears from the statements of the applicant that they can not be waived for the current owner.

Map 16-45-30.4, part of tax lot 102: The minimum lot size and restrictions on new dwellings ~~do not appear to may be exempt regulations,~~ however and it appears from the statements by the applicant that they can not be waived for the current owner.

CONCLUSION

Map 16-45-31, a part of tax lot 101: It appears this is not a valid claim.

Map 16-45-31, a part of tax lot 102: It appears this is not a valid claim.

RECOMMENDATION

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