

**BALLOT MEASURE 37 (CHAPTER 1, OREGON LAWS 2005)
CLAIM FOR COMPENSATION**

OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

Final Staff Report and Recommendation

June 21, 2005

STATE CLAIM NUMBER: M119073

NAME OF CLAIMANTS: Danny V. Ellison and
Janice R. Ellison

MAILING ADDRESS: PO Box 127
Canyon City, Oregon 97820

IDENTIFICATION OF PROPERTY: Township 13S, Range 31E, Section 36
Tax lot 300, Grant County

OTHER INTEREST IN PROPERTY: Ellison Family Trust

DATE RECEIVED BY DAS: December 27, 2004

180-DAY DEADLINE: June 25, 2005

I. CLAIM

The claimants, Danny and Janice Ellison, seek compensation in the amount of \$852,730 for the reduction in fair market value as a result of certain land use regulations that are alleged to restrict the use of certain private real property. The claimants desire compensation or the right to divide and develop the subject property. The subject property is located on tax lot 300, Township 13 South, Range 31 East, Section 36, W.M. (Tax Map13-31-36-300) in unincorporated Grant County. (See claim.)

II. SUMMARY OF STAFF RECOMMENDATION

Based on the findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid. Department staff recommends that, in lieu of compensation, the requirements of certain state laws enforced by the Land Conservation and Development Commission (the Commission) or the department, specifically applicable provisions of Statewide Planning Goal 3 (Agricultural Lands) and OAR 660, Division 33, and ORS 215 not apply to the subject property to the extent necessary to allow the Ellisons to divide the property and establish one or more dwellings to the extent permitted at the time they acquired it. As a

result, the Ellison's use of the property will be subject to those specified laws in effect on September 7, 1984. (See Section VI. of this report for the complete recommendation.)

III. COMMENTS ON THE CLAIM

Comments Received

On February 15, 2005, pursuant to OAR 125-145-0080, the Oregon Department of Administrative Services provided notice to owners of surrounding properties. According to DAS, no written comments, evidence or information have been received in response to the 10-day notice.

IV. TIMELINESS OF CLAIM

Requirement

Ballot Measure 37, Section 5, requires that a written demand for compensation be made:

1. For claims arising from land use regulations enacted prior to the effective date of the measure (December 2, 2004), within two years of that effective date or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner, whichever is later; or
2. For claims arising from land use regulations enacted after the effective date of the measure (December 2, 2004), within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria whichever is later.

Findings of Fact

This claim was submitted to DAS on December 27, 2004 for processing under OAR 125, Division 145. The claim identifies Grant County's MUR-40 (160-acre) zone as limiting the ability to divide the property into 5-acre parcels as the basis for the claim. Only laws that were enacted prior to December 2, 2004, the effective date of Measure 37 are the basis for this claim. (See citations of statutory and administrative rule history of the Oregon Revised Statutes and Oregon Administrative Rules.)

Conclusions

The claim was submitted within two years of December 2, 2004, the effective date of Measure 37, based on land use regulations adopted prior to December 2, 2004, and is therefore timely filed.

V. ANALYSIS OF CLAIM

1. Ownership

Ballot Measure 37 provides for payment of compensation or relief from specific laws for to “owners” as that term is defined in the Measure. Ballot Measure 37, Section 11(C) defines “owner” as “the present owner of the property, or any interest therein.”

Findings of Fact

Danny V. Ellison and Janice R. Ellison acquired the subject property (including an additional 10.34 acres not subject to this claim) on September 7, 1984 as reflected by a Memorandum of Contract of Sale. A deed in satisfaction of the contract was executed on July 31, 1996. (See claim.) On July 31, 1992, the Ellisons conveyed the property to themselves as Trustees of the Ellison Family Trust.

In 1996, the Ellisons partitioned the property acquired in 1984 into three parcels (Partition Plat 96-19).¹ Tax lot 300 (153.7 acres) is the property subject to this claim. On November 18, 2004, the Ellisons sold one of the other parcels (tax lot 302). At this time, the other parcel (tax lot 301) is still owned by the Ellisons, but is not part of this claim.²

Conclusions

The claimants, Danny and Janice Ellison are “owners” of tax lot 300, the property that is the subject of this claim, as defined by Section 11 (C) of Ballot Measure 37, and have been owners of the subject property since September 7, 1984.

2. The Laws that are the Basis for this Claim

In order to establish a valid claim, Section (1) of Ballot Measure 37 requires, in part, that the law must restrict the claimant’s use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimant or a family member acquired the property.

Findings of Fact

The claim states that under the MUR-40 (160-acre) Zone, which the County adopted in 1986, “we could no longer divide our land into 5 acre parcels.” The subject property is zoned Multiple Use Rangeland (MUR-40) as required by Statewide Planning Goal 3 in accord with OAR 660, Division 33, and ORS 215. Current land use regulations, particularly ORS 215.263, 215.284, 215.780 and OAR 660, Division 33 as applied by

¹ Formerly tax lot 5100, located in T.13S, R.31, Section 36, was 160 acres in size (See Grant County decision on 1996 land partition).

² Based on personal communication of February 8, 2005 between Doug White (DLCD) and Hillary McNary (Grant County Planning Department).

Goal 3, do not allow the subject property to be divided into parcels less than 160 acres and establish standards that limit farm or non-farm dwellings on them.

When the claimants acquired the property in 1984 it was zoned by the county as Rural Residential (RR-5). That zone required a five-acre minimum parcel size for the creation of new lots or parcels. (See endnote ⁱ). However, at that time, the County's Rural Residential (RR-5) Zone was not acknowledged by the Land Conservation and Development Commission (the Commission) under the standards for state approval of local comprehensive plans and land use regulations pursuant to ORS 197.250 and 197.251. The Commission reviewed the Grant County Comprehensive Plan in 1983 and again in 1984, and determined that the proposed RR-5 Zone, as applied to the subject property, did not comply with the Statewide Planning Goals. (See endnote ⁱⁱ). Because the Commission had not acknowledged Grant County's comprehensive plan and land use regulations, Statewide Planning Goal 3, applied directly to the property when the claimants acquired it on September 7, 1984.

Statewide Planning Goal 3 became effective on January 25, 1975 and was applicable to the county's legislative land use decisions and some quasi-judicial land use decisions prior to the Commission's acknowledgment of local plans.³ As adopted in 1975, the goal required that agricultural land be "preserved and zoned for exclusive farm use pursuant to ORS 215." The subject property is "agricultural land" as defined by Goal 3 because it is composed predominantly of Class VI soils and was subject to EFU zoning pursuant to ORS 215 when acquired by the claimant on September 7, 1984.⁴ The opportunity to divide the property when the claimants acquired it in 1984 was limited to land divisions done consistent with Goal 3 and ORS 215.263(2)(a) (1983 edition). These provisions required the resulting parcels be either (1) "appropriate for the continuation of the existing commercial agricultural enterprise in the area;" or (2) "not smaller than the minimum lot size acknowledged under ORS 197.251. The standards for the creation of non-farm parcels are set forth in ORS 215.263(3) and (4) (1983 Edition). No information has been provided showing that the claimants' proposed five-acre, 30-lot development complies with the standards for farm parcels under Goal 3 or with the standards for non-farm parcels under ORS 215.263(3) or (4) (1983 edition), in effect in 1984.

In 1986, the property was ultimately designated on the County's comprehensive plan map as Agricultural Rangeland and rezoned from RR-5 to MUR-40 (160) to comply with the

³ See *Sunnyside Neighborhood Assn. v. Clackamas County*, 280 Or 569 (1977), *1000 Friends of Oregon v. Benton County*, 32 Or App 413 (1978), *Jurgenson v. Union County*, 42 Or App 505 (1979), *Alexanderson v. Polk County*, 289 Or 427, *rev. denied*, 290 Or 137 (1980) and *Perkins v City of Rajneeshpuram*, 300 Or 1 (1985). After the County's plan and land use regulations were acknowledged by the Commission, the Statewide Planning Goals and implementing rules no longer directly applied to such local land use decisions (See *Byrd v. Stringer*, 295 Or 311 (1983)). However, the applicable statutes continue to apply and insofar as the local implementing provisions are materially the same as the rules, the local provisions must be interpreted consistent with the substance of the rules. *Forster v. Polk County*, 115 Or App 475 (1992) and *Kenagy v. Benton County*, 115 Or App 131 (1992).

⁴ Soils on the property are composed of predominately Class VI agricultural soils (Soil Survey of Grant County, Oregon, Central Part, property located on Sheet #25. Soil map units for 31B, 40E and 41E found on pages 21 and 26, February 1981).

LCDC order that directed the County to adopt zoning consistent with Goal 3. The County established a minimum lot size standard of 160 acres, a definition of “commercial agriculture” consistent with OAR 660-05-005(2) (effective July 21, 1982, repealed effective August 7, 1993), and additional standards to allow land divisions creating parcels between 160 acres and 40 acres that comply with Goal 3 (Ordinance 86-2). (See endnote ⁱⁱⁱ).

In addition, according to the County’s comprehensive plan, adopted in 1985 to justify the proposed RR-5 zone for this property (formerly Tax Lot 5100, Map 13-31-Index), “nearly 35 acres are nonbuildable due to steep slopes associated with two dry drainageways” and the maximum development potential is eight (8) units (Grant County Ordinance 85-01, Exception Area No. 2, Dog Creek/Marysville Rural Residential Area, April 4, 1985). It appears that two of those eight maximum potential lots were already created in 1996. The claim does not include information explaining the discrepancy between the 30-lot development cited in the claim and the statement in the 1985 comprehensive plan that determined there is a maximum for only eight potential home sites (or lots) on this property, two of which have already been created.

Conclusions

The minimum lot size and dwelling standards established by ORS 215.263, 215.284 and ORS 215.780, as applied by Goal 3 and OAR 660, Division 33 were all adopted after the property was acquired by the claimant’s family in 1984, and do not allow the division of the property or the placement of dwellings on them as was possible in 1984, thereby restricting the use of the property relative to the uses allowed when the property was acquired in 1984 by the Ellison’s.

The Ellisons’ claim is based on the assumptions that the County’s RR-5 zone was the governing land use regulation when they acquired the property in 1984. However, at the time the claimants acquired the property, the County’s RR-5 Zone had not been acknowledged by the Commission. Rather, the Goal 3 standards for farmland divisions and the standards for non-farm parcels under ORS 215.263 (1983 edition) applied to the property instead of the five-acre minimum parcel size requirements of the unacknowledged RR-5 Zone.⁵

Based on the correct Goal 3 standard for land divisions applicable to the property when acquired by the Ellisons in 1984, it is possible that one or more new parcels can be created between 160 and 40 acres in size, which is more than the applicable provisions of ORS 215.263, as applied by Goal 3 and OAR 660, Division 33, currently allow.

3. Effect of Regulations on Fair Market Value

⁵ One indicator of what land division standards applied to the property when it was acquired and that comply with the Goal 3 minimum lot size standard in Grant County are the land division standards in the acknowledged MUR-40 (160) zone which allowed the creation of an unknown number of parcels between 160 and 40 acres in size.

In order to establish a valid claim, Section (1) of Ballot Measure 37 requires that any land use regulation described in Section V.(2) of this report must have “the effect of reducing the fair market value of the property, or any interest therein.”

Findings of Fact

According to the claimants, the inability to divide their property into 5-acre parcels because of the current restrictions of the MUR-40 (160-acre) zone, results in a fair market value reduction of \$852,730. The claim states that the basis of evaluation for this reduction is that under the RR-5 Zone (that applied to the property at time of purchase) the Ellisons would have been able to create twenty, 5-acre lots at a value of \$40,000 for each lot, and ten, 10-acre lots at a value of \$50,000 for each lot. The two lot values multiplied by the number of potential lots (30) results in \$1,050,000. A title report is included in the claim and shows a current assessed real market value (improvements) of \$30,040 and current assessed real market value (land/improvements) of \$167,700. Subtracting the combined current assessed values of \$197,270 from the total value resulting from 30 potential lots (\$1,050,000) leaves a fair market value of \$852,730.

Information in the claim does not show that the identified fair market value reduction of \$852,730 is actually attributable to land use regulations enacted after the claimants acquired the property in 1984. As stated above, partitioning or subdivision of the subject property at the time of purchase in 1984 was subject to Goal 3, and no information has been presented that shows that the five-acre lot development would be authorized under the Goal 3 standard that applied at that time of the Ellisons’ purchase. All that can be determined is that some unknown number of parcels between 160 and 40 acres may be possible under Goal 3 standards in effect at the time of purchase. Because it is possible that some parcels less than 160 acres could be created in compliance with Goal 3, it is more likely than not that there has been some reduction in the fair market value of the property since no such parcels less than 160 acres are currently permitted.

Conclusions

The claimant has not provided information to show that Goal 3 standards that applied after they purchased the property in 1984 resulted in a reduction in fair market value. This is because the reduction in the fair market value provided in the claim was incorrectly based on the County’s 5-acre lot size requirement applied locally and not on the requirements for land divisions under Goal 3 and ORS 215.263 (1983 edition) that applied at the time the Ellisons purchased the property in 1984.

Until the number of new parcels that can be created in 1984 under the Goal 3 standard is determined, the specific amount of any reduction in the fair market value of the property cannot be determined. Also, as discussed in Section V.(2) above, the projected fair market value does not appear to be based on the actual development potential of this property, limited in this case by steep slopes. However, since the property cannot be divided into parcels less than 160 acres under current standards but could have potentially

been divided into some parcels between 40 and 160 acres in size under the Goal 3 standard in effect in 1984, it is more likely than not that there has been some reduction in the fair market value of the subject property.

4. Exemptions under Section 3 of Measure 37

Ballot Measure 37 does not apply to certain land use regulations. In addition, under Section 3 of the Measure, certain types of laws are exempt from the Measure.

Findings of Fact

The land use regulations that this claim is based on are Grant County's Multiple Use Rangeland MUR-40 (160) Zone, Statewide Planning Goal 3, ORS 215.283, and relevant sections of OAR 660 relating to agricultural lands. Certain of these land use regulations were enacted before the date on which the current owners acquired an interest in the property. Land use regulations enacted before the date the current owners or family member acquired an interest in the property are exempt under section (3)(E) of Measure 37. These land use regulations include the versions of ORS 215.263, ORS 215.283, Goal 3, and provisions of OAR 660 in place as of September 7, 1984. Other applicable state regulations cited in the claim do not appear on their face to be exempt under Section 3 of Ballot Measure 37.

Conclusions

The versions of ORS 215.263, ORS 215.283, Goal 3, and relevant sections OAR 660 relating to agricultural lands in place before September 7, 1984, are exempt from this claim. Other applicable regulations cited in the claim do not appear, either on their face, to be exempt under Section 3 of Ballot Measure 37. There may be other specific laws that continue to apply under one or more exemptions in the Measure, because they were not identified in the claim, or because they are laws that are not covered by the law to begin with.

VI. FORM OF RELIEF

Section 1 of Measure 37 provides for payment of compensation to an owner of private real property if the Commission or department enforced a law that restricts the use of the property in a manner that reduces its fair market value. In lieu of compensation, the department may choose to not apply the law to allow the owner to carry out a use of the property permitted at the time the owner acquired the property. The Commission, by rule, has directed that if the department determines a claim is valid, the Director must provide only non-monetary relief unless and until funds are appropriated by the legislature to pay claims.

Findings of Fact

Based on the findings and conclusion set forth in this report, laws enforced by the Commission or the department restrict the division of the subject property into parcels or lots, and the use of the property for residential purposes. The claimant cannot create the desired 5-acre lots out of the subject property. The laws enforced by the Commission or department reduce the fair market value of the subject property to some extent. The claim asserts this amount to be \$852,730 dollars. However, because the amount identified by the claimant is not based on the correct development standard and because the claim does not provide a specific explanation for how the specified restrictions reduce the fair market value of the property, a specific amount of compensation cannot be determined. Nevertheless, the department acknowledges that the laws on which the claim is based may have reduced the fair market value of the property to some extent.

No funds have been appropriated at this time for the payment of claims. In lieu of payment of compensation, Ballot Measure 37 authorizes the department to modify, remove or not apply one or more land use regulations to the extent necessary to allow the Ellisons to use the subject property for a use permitted at the time they acquired the property on September 7, 1984.

Conclusion

Based on the record, the department recommends that the claim be approved, subject to the following terms:

1. In lieu of compensation under Measure 37, the State of Oregon will not apply the following laws to the Ellisons' division of their property or to the establishment of one or more dwellings on it: those provisions of ORS 215.263, ORS 215.284 and ORS 215.780 as applied by Statewide Planning Goal 3 and OAR 660, Division 33, enforced after September 7, 1984 that relate to the division of land or to the establishment of dwellings.
2. The action by the State of Oregon provides the state's authorization to the claimants to use their property subject to the standards in effect on September 7, 1984. On that date, the property was subject to Statewide Goal 3 and ORS 215.263(2)(a) (1983 edition). These provisions require that the resulting parcels be either: (1) "appropriate for the continuation of the existing commercial agricultural enterprise in the area;" or (2) "not smaller than the minimum lot size acknowledged under ORS 197.251 as well as the standards for the creation of non-farm parcels set forth in ORS 215.263(3) and (4) (1983 Edition).
3. To the extent that any law, order, deed, agreement or other legally-enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, the order will not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.412 or ORS 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.

4. Any use of the property by the claimants under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to Measure 37 including, without limitation, those laws exempted under section (3) of the Measure.

5. Without limiting the generality of the foregoing terms and conditions, in order for the claimants to use the property, it may be necessary for them to obtain a decision under Measure 37 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves the claimants from the necessity of obtaining a decision under Measure 37 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the property by the claimants.

VII. COMMENTS ON THE DRAFT STAFF REPORT

The department issued its draft staff report on this claim on June 3, 2005. OAR 125-145-0100(3), provided an opportunity for the claimant or the claimant's authorized agent and any third parties who submitted comments under OAR 125-145-0080 to submit written comments, evidence and information in response to the draft staff report and recommendation. Comments received have been taken into account by the department in the issuance of this final report.

ⁱ The Ellisons entered into a contract for the purchase of the property on September 7, 1984. At that time, the following local land use regulations were in effect and applied to the property:

- Comprehensive Plan for Grant County, adopted by Ordinance 83-05 on May 11, 1984;
- Zoning Ordinance for Rural Areas adopted by Ordinance 84-03 on May 23, 1984; and
- Zoning Map dated May 1980.

At the time of purchase by the Ellisons, the property was designated Rural Residential and included in the comprehensive plan as the Dog Creek-Marysville Exception Area. Additionally, the property was zoned Rural Residential, which had a five acre minimum parcel size for the creation of new parcels or lots (See Claim).

ⁱⁱ In 1983, prior to the Ellisons purchasing the property, the County requested that the Commission acknowledge its comprehensive plan and land use regulations pursuant to ORS 197.251, including the rural residential zoning applied to the subject property (Ordinances 83-2, 83-3, 83-4 and 83-5). On November 17, 1983, the Commission considered the County's request. Based on that review, the Commission determined that the rural residential exception areas (including the subject property) under Ordinance 83-5 did not comply with Statewide Planning Goal 2, relevant statutes and administrative rules regarding exception areas (Commission Order 83-CONT-229, issued December 17, 1983, and Department October 27, 1983 Report").

In response to the Commission's 1983 continuance order, on May 23, 1984 the County adopted Ordinances 84-01, 84-02, 84-03 and 84-02, and again requested that the Commission acknowledge its land use regulations as complying with the Statewide Planning Goals. Included in those amendments were additional findings to justify the rural residential zoning applied to the subject property. On December 14, 1984, Commission again determined that the County had not adopted information addressing the relevant factors needed to justify an exception to Goals 3 and 4 for

the rural residential areas (Commission Continuance Order 84-CONT-387, issued December 21, 1984, and department November 29, 1984 Report, pp. 10-15).

iii Policy Implementation 6 and 7 of the Agricultural Lands Element of the Grant County Comprehensive Plan states:

- “(6) In order to promote the continuation of the existing commercial agricultural enterprise in the County, zoning regulations shall establish a minimum farm parcel size of 160-acres for agricultural rangeland and cropland. Land divisions between 160 acres and 40 acres in agricultural rangeland areas, and between 160-acres and the “absolute minimum lot size” of each respective agricultural cropland areas are intended to be farm parcels, may be determined to be appropriate for the continuation of the existing commercial agricultural enterprise in the area.
- (7) Lands designated by the Plan as agricultural land and containing 160 acres or greater shall be presumed to be commercial agricultural enterprises.”

The following standards govern farmland divisions (Grant County Ordinance 86-2):

- “(8) Commercial farm operation “shall be defined to mean an agricultural operation or unit that meets one or more of the following standards:
- (A) Gross farm income is greater than or equal to \$20,000.
 - (B) The farm requires the labor of at least one head of household for 20 hours or more per week averaged in an annual basis.
 - (C) Gross farm income is equal to 1/3 of the total family income.
- (9) Implementation measures for farm land divisions less than 160-acres in the EFU and MUR Zones shall contain the following provisions:
- (D) For any land division creating lots or parcels between 160 and 40 acres in the MUR Zone and between 160 acres and the “absolute minimum lot size” of each respective EFU Zone and intended to be farm parcels as commercial agricultural operations, each parcel shall be found to be typical of the existing commercial agricultural operations in the area.

The following factors shall be addressed in the development of the required findings:

- (a) Each parcel resulting from the proposed division is as large or larger that the median size of commercial farms within a 2-mile radius of the subject property relative to similar soil types, crops and land use pattern in the area.
 - (aa) If the inventory line includes only a portion of a commercial farm operation, the entire farm shall be included in the inventory.
 - (bb) Nonfarm parcels and all parcels less than 20 acres will not be used in the inventory of commercial farms.
 - (cc) Farm operations which do not meet the commercial test under subsection (c) below shall be excluded from the inventory of commercial farms.
- (b) Any proposed parcel below 160 acres shall have useable water rights and water availability of adequate quantity to ensure the operation of irrigated farming techniques at commercial levels.
- (c) The proposed parcel must be of a size and shape that is efficient for the use of farm machinery including: Cultivation, harvesting and spraying equipment. If the proposed division would probably result in appreciably reduced yields or management efficiency on new lots, the application shall be denied. If the proposed division would materially alter the stability of the overall land use pattern of the area, that application shall be denied.

For purposes of this Section, a commercial farm operation is one which meets one or more of the following standards:

- (1) Gross farm income is greater than or equal to \$20,000.

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- (2) The farm requires the labor of at least one head of household for 20 hours or more per week averaged in an annual basis.
 - (3) Gross farm income is equal to 1/3 of the total family income.”

^{iv} The Goal 3 standard for the review of land divisions or the establishment of a minimum lot size states:

“Such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise within the area.”

On September 7, 1984, the Commission had an administrative rule in effect to guide the interpretation and application of the Goal 3 minimum lot size standard (see OAR 660, Division 5, specifically rules 015 and 020 effective July 21, 1982).

For further guidance on the interpretation and application of this standard and rule see *Kenagy v. Benton County*, 6 Or LUBA 93 (7/16/82); *Goracke v. Benton County*, 8 Or LUBA 128 (6/8/83); 68 Or App 83 (5/9/84); 12 Or LUBA 128 (9/26/84); 13 Or LUBA 146 (4/4/85); 74 Or App 453 (7/17/85), *rev. denied* 300 Or 322 (11/26/85); and OAR 660-05-015 and 020 as amended effective June 7, 1986 (repealed effective August 7, 1993).

The 1982 administrative rule (OAR 660-05-015 and 020) were further amended to incorporate the holdings of these cases (effective June 7, 1986 and repealed effective August 7, 1993).

As stated above, one indicator of what would comply with the Goal 3 minimum lot size standards in effect in 1984 is the County’s MUR-40 (160) zone, revised and acknowledged by the Commission in 1986.