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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for)
 a Conditional Use Permit for)

CUP 41-90

PENN - ANDERSON, INC.)

FINDINGS OF FACT,
 CONCLUSIONS OF LAW
 AND ORDER

This matter came before Hearings Officer Neil Smith on August 17, 1990 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to notice given in conformity with the Land Development Code and related ordinances. The applicant was represented by its attorney William M. Ganong. The Klamath County Planning Department was represented by Mr. J. Kim Lundahl and the recording secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. This application is for a Conditional Use Permit to establish a campground, private park and fishing preserve on approximately 20 acres of a 920 acre parcel of property located generally 7 miles east of Chiloquin, Oregon on the Sprague River Highway and known commonly as the Rafter MD Ranch. A legal description of the subject property is attached to the Conditional Use Permit application and is incorporated herein by this reference.

2. The proposed facility, if fully developed, would consist of five areas of approximately 2 to 4 acres each which would be developed with a mix of recreational vehicle sites, tent sites and

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bunkhouses. Each recreational vehicle site would include a pad and water, power and septic system hookups. Each campsite would include a tent site, a fire ring and picnic table and fresh water supply. Each bunkhouse would consist of a one room framed structure with bunkbeds, sink, refrigerator and small stove. The bunkhouses would have no restrooms or shower facilities. Central restroom and shower facilities will be provided at each campground area. The actual number of units in each campground will be dependent upon the terrain and other physical limitations of each campground. It is anticipated that each campground will include 30 to 40 facilities appropriate for one family, which may be campsites, cabins or RV sites.

3. The materials submitted with the application include a colored aerial photograph on which the applicant has outlined five potential campground sites. The applicant anticipates developing the site which is located near the existing single family residence and barn and near the westerly boundary of the subject property first. It is anticipated that that campground will contain mostly RV sites. In addition, the applicant will construct an RV holding tank dumpsite, so that chemicals commonly used in RV holding tanks will not be introduced into the septic system on the ranch. The applicant will also develop a water tank on the ridge which runs along the westerly side of the subject property, which water tank will supply water to the initial campground.

4. The proposed campground will be open year around and will be available for use by members only. The applicant intends to market memberships in the metropolitan areas of California.

5. The applicant will adopt rules which will be strictly enforced by the applicant and which will prohibit fires, except in designated fire pits; dogs, except on leashes; and which will control the activities of people using the campground and ranch in order to protect the agricultural operation on the ranch and the uses of nearby and adjoining property.

6. The subject ranch is currently used as a cattle ranch. The agricultural use of the property will not change. It will continue to operate as a commercial cattle ranch. The ranch also holds a grazing permit on approximately 10,000 acres of Winema National Forest land which lies adjacent to the subject property. The campground users will have the use of said Forest land subject to the regulations of the Winema National Forest.

7. There will no restaurant or store on the property. It is anticipated that people using the campground will purchase supplies in Chiloquin or Klamath Falls and will prepare their own meals as necessary at their campsites.

8. The subject property is not located in any fire protection district. However, the applicant's representatives contacted the Chiloquin Agency Rural Fire Protection District and said District has advised the applicants that it will provide fire services to the subject property on a fee basis. In addition, said Fire District advised the applicants that it would prefer that the applicants annex the subject property into the Fire District. The applicants assured the Hearings Officer that they would annex the property into the Fire District at such time as it is physically possible to do so. In order to annex the property into the District, it may be

necessary to annex ownerships which lie between the subject property and the easterly boundary of the Fire District. Such annexation would require the consent of the other ownerships which may not be forthcoming. However, if it becomes legally possible to annex the subject property into the Fire District, the applicants will do so.

9. The property is currently served by two wells. The larger of the two wells provides irrigation water to the subject property at a rate of 1,500 gallons of water per minute. The well has a rate capacity of 3,000 gallons of water per minute. In addition, a smaller well provides domestic water to the existing residence and will be used to provide domestic water to the first campground site. The Fire District requested that the applicants provide a stand pipe at the irrigation well from which the Fire District can fill its tanker trucks and the applicants shall conform with said request. In addition to the wells, the subject property is served by pumps located along Sprague River, which pumps provide additional irrigation water and fire protection.

10. The subject property is buffered from adjacent land uses by artificial and natural barriers. The artificial barriers include the Sprague River highway and a power transmission line which lies along the Southerly boundary of the property. Said transmission line right of way is 120 feet in width and the vegetation within the right of way is controlled so as to provide a fire break between the subject property and the National Forest and private lands which lie to the South of the subject property. All of the proposed campsites are located South of the Sprague River. The Sprague River traverses the subject property from East to West and, along with the pasture

located North of the river, will provide a buffer between the campgrounds and the ownerships located North of the subject property. There is a natural ridge located along the Westerly boundary of the property which serves as a buffer between the ranch and the adjoining ranch to the West.

11. The property consists of approximately 500 acres of irrigated pasture, 350 acres of lightly forested ridges and 70 acres of transitional lands. There will be no campground development on any of the irrigated pastures. Those lands will be preserved for the historic agricultural use. The forested areas have been logged within the past several years and will continue to produce timber. The campgrounds will be located on the higher forested land but will displace little or no timber.

12. The property is served by electricity and telephone lines which parallel the Sprague River Highway. The property is served by the Sprague River Highway which, according to the Klamath County Engineers Office, is operating at approximately 50% of capacity. Klamath County Assistant Engineer has determined that said Highway has sufficient reserve capacity to handle the additional traffic which this project will generate. If fully developed, the project will include approximately 150 campsites with one family per site. Therefore, it is reasonable to expect up to 150 automobiles or recreational vehicles using the highway to access this property on a daily basis during the recreational months. The campsites will all be located along existing roads. There will be a culdesac or small one lane access road developed through each campground to provide access to the campsites.

13. The campsites will be served by septic systems designed and installed to the requirements of the Klamath County Health Department.

14. There will be no new permanent residences established on the subject property and there will be no impact on public schools or similar public facilities.

15. The applicant submitted voluminous reports from the State of Oregon Parks Division and the Winema National Forest which identify a need for recreational campgrounds, particularly campgrounds providing recreational vehicle sites. The subject property and the proposed use will help meet the identified need and, in addition, help carry out the Klamath County Economic Development Plan which has been approved by the State of Oregon and in particular the tourism component of said plan.

16. Information submitted from the Oregon State Employment Division notes the decreased job availability in the forest industries in the Klamath County area and the need to diversify its economy, particularly as it respects increased tourism. The proposed use will meet that need.

17. At the hearing on this matter, the only testimony given was that given by the applicant. However, prior to the hearing, Dorothy Buchanan, an adjoining property owner, submitted a letter which raised several questions and which were addressed by the applicant at the hearing. Mrs. Buchanan's letter points out a discrepancy between the application form and the materials submitted in support of the application. The application form indicated potential campground usage of ten acres, whereas the materials

submitted with the application suggest a potential use of up to twenty acres of land for the campgrounds. The applicant testified that, in fact, up to twenty acres may be incorporated in the campground. Mrs. Buchanan raised concerns about fire protection and protection of riparian areas. The applicant addressed the fire concerns with its testimony concerning fire protection and the availability of protection from the Chiloquin Agency Fire District and through strict regulations concerning fires on the ranch. The applicant addressed the concerns about riparian areas by its testimony that the campgrounds will be developed back away from the Sprague River area and on the ridges on the ranch. In addition, there will be no campground or other facilities developed north of the Sprague River. Therefore, the River and the pasture lying north of the River will buffer the subject project from Mrs. Buchanan's adjoining land. The applicant also assured the Hearings Officer that the regulations and rules which will govern the use of the ranch by the members will be strictly enforced. In addition, it was pointed out that the commercial cattle operation currently located on the ranch will continue and that it is in the best interests of the applicant and ranch manager to maintain good fences on and around the ranch. The applicant represented to the Hearings Officer that representatives of the applicant had met with Mrs. Buchanan the day before the hearing to respond to Mrs. Buchanan's concerns and that said representatives believe many of Mrs. Buchanan's fears had been alleviated. Other issues raised by Mrs. Buchanan's letter are discussed in the Findings of Fact contained above. In order to monitor the development of the campgrounds, the hearings officer

will require that the applicant submit specific site plans to the Planning Department for its review for consistency with this order prior to obtaining a building permit for said development.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Klamath County Land Development Code Section 44.003 sets forth the criteria which must be addressed in reviewing an application for a Conditional Use Permit. In addition, the subject property is zoned EFU-CG - Exclusive Use Farm Use - Cropland/Grazing. Section 51.018(C) of the Land Development Code, contains additional criteria which must be addressed for a Conditional Use Permit for a non-farm use.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

The following Findings of Fact and Conclusions are made concerning the review criteria noted above:

1. The proposed use will not interfere seriously with accepted farming practices on adjacent lands. As noted in the Findings of Fact above, the existing commercial cattle operation on the subject property will be continued. The campgrounds will be developed on hills or ridges located within the ranch and not on the pasture land. In addition, the applicant will adopt and strictly enforce rules and regulations governing the conduct of the people using the campground and which will be designed to prohibit activities which would interfere with any of the adjoining land uses.

2. The proposed campgrounds will be situated on land which is generally unsuitable for farm use as defined by the Code. The actual campground usage will include up to twenty (20) acres of land. The land that will be used will be the hill land that is up

and away from the irrigated pasture lands. This hill land has some grazing value, however, that grazing value amounts to the loss of less than one animal unit (cow/calf) for less than one week per year. Said computation is based on the fact that the Forest Service Grazing Permit for the subject property allows 150 cow/calf units on approximately 10,000 acres of land for four months. The applicant submitted SCS soil information and a topographical map which shows that the hillsides have generally gentle slopes and good soils which should accommodate the drainage and septic needs for the campsites.

3. Whenever possible, non farm use should be located on soils that are not classified predominantly as I to IV by SCS standards. In this case, the proposed campgrounds will be located on Class VI soils which, as stated above, have limited farm use value.

4. The access to the subject campgrounds will be over existing roads which do not interfere with the farming practices located on the surrounding land. Said roads are shown on the aerial photograph submitted with the application and on the maps submitted with the application. Said roads are located generally on the foot of the ridges which lie adjacent to the irrigated pasture lands and are not located on the irrigation pasture lands. As stated above, the property will be served by the Sprague River highway which has adequate available capacity to serve this use.

5. That the use will comply with such other conditions as the review authority contains necessary. In this case, because the applicant is unable to supply specific site plans at this time, the Hearings Officer hereby requires that as a condition of the granting of this permit that the applicant provide to the Planning Department

specific development plans for each campground at such time as the applicant commences or is ready to commence construction of each campground. In addition, the Hearings Officer requires as a condition of the granting of this application that the applicant adopt and provide to the Planning Department, a copy of the rules and regulations which will govern the members using the subject facilities and which include regulations concerning fires, dogs and other animals, firearms and all terrain vehicles.

6. The proposed use is conditionally permitted in the subject zone. Klamath County Land Development Code Section 51.018(C)(e)(6) allows private parks and campgrounds in the EFU-CG zone.

7. The location, size, design and operating characteristics of the proposed use are in conformance with Klamath County's Comprehensive Plan. The Klamath County Comprehensive Plan provides for a balancing of the need for economic diversification and development against the need to preserve farm land for farm uses. In this case, the policies of Goal 8 Recreation and Goal 9 Economy outweigh the agricultural policies of Goal 3. The information and studies submitted with the application of the State Parks Division, the Winema National Forest and Klamath County's Economic Development Plan support this finding. The information submitted from the Oregon State Employment Division shows a substantially decreasing availability of jobs provided by forestry sector and the need for the County to diversify its economic base. The prime component for diversification listed by the State Employment Division for Klamath County is tourism. It was noted during the testimony that Chiloquin's primary employer, the Chiloquin Forest Product's Mill,

has been shut or its use has been sharply curtailed and that with the decreasing availability of timber in Klamath County, it is unlikely that the mill will regain its former production schedule.

8. The proposed use will displace approximately one animal unit from grazing on the subject property for one week a year. Said loss of farm use when compared to the benefit to the County from the proposed use demonstrates that the proposed use is in compliance with the requirements of Klamath County's Land Use Plan.

9. The location, size, design and operating characteristics of the development will be compatible with and will not have a significant adverse affect on abutting properties and surrounding neighborhoods. As noted above, Mrs. Buchanan raised several concerns or potential adverse affects which can be summarized as follows:

- A. Interference with farm use practices in the area;
- B. Interference with forest practices and potential fire problems;
- C. Additional traffic; and
- D. Impact on the Sprague River.

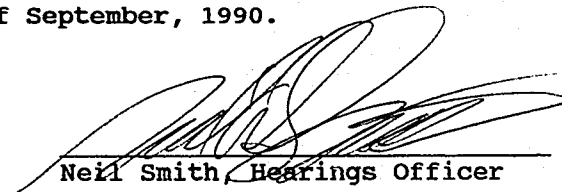
In each case, the potential impact has been negated or minimized. The strict enforcement of membership rules will eliminate many potential impacts such as dogs or firearms discharges bothering cattle. In addition, the rules will minimize the potential for wild fire problems and, coupled with the agreement with the Fire District to provide fire protection, minimizes the potential fire problem. In addition, it is noted that the subject property is buffered from adjoining areas including the Buchanan

Ranch by artificial and natural buffers that are noted above. The proposed use dovetails with the U.S. Forest Service draft recreation plan and State and County economic development plans. It also helps fill a recognized and documented need for modern camp facilities which include full utility hookups for RVs.

ORDER

The application of Penn Anderson, Inc. for a Conditional Use Permit to construct a campground, private park and fishing preserve on the above described property is granted. The permit shall be conditioned on the applicant filing for review by the Planning Director a site plan for each campground area before the applicant constructs such campground. It is further conditioned on the applicant providing to the Planning Director and strictly enforcing membership rules which contain the restrictions or protections noted above. The applicant shall keep the campground in an orderly and clean condition and shall comply at all times with all Klamath County ordinances, rules, codes and standards.

Dated this 20th day of September, 1990.



Neil Smith, Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within 10 days of its mailing by a party having a standing in accordance with the procedures set forth in Chapter 3, Article 33 of the Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 24th day
of Sept. A.D., 19 90 at 12:31 o'clock P.M., and duly recorded in Vol. M90,
of _____ Deeds on Page 19182.

FEE none

Evelyn Biehn County Clerk

By Pauline Mustenolore

Return: Commissioners Journal