

**BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY**

American Cash Equities, Inc.,)
)
Applicant/Appellant.)

ORDER**For Conditional Use Permit No. 18-99****1. SCOPE OF THE HEARING:**

The referenced case, an application per Article 44 to allow a conditional use for a domestic water system for 73 existing lots in the Leisure Woods subdivision, was considered and DENIED by the Hearings Officer August 18, 1999. The applicant filed an appeal of this decision August 20, 1999. The Board of County Commissioners conducted a hearing on this appeal on September 22, 1999.

The appeal was heard pursuant to the procedure set out in Article 33 of the Klamath County Land Development Code.

2. THOSE WHO PARTICIPATED:

A notarized listing of those who participated at this Hearing is on file with the Planning Department. Carl Shuck, Planning Director, represented the Planning Department. Karen Burg, Planning Assistant, was the recording secretary. Members of the Board who heard the appeal were M. Steven West, William R. Garrard, and Al Switzer. Reginald R. Davis, County Counsel, was also present.

Lori Kliwer, Attorney for Appellant, and Patrick Gisler, Member of Applicant/Appellant, testified on behalf of Appellant/Applicant. Joel Gisler, Member of Applicant/Appellant also appeared on behalf of Appellant/Applicant. Harry Brown testified in opposition and Michael Petruscha submitted a letter in opposition.

3. CASE DESCRIPTION:

The Hearings Officer found applicant did not qualify for a groundwater exempt use status "as a matter of law" because the "applicant effectively has two exemptions, which is one too many." The Hearings Officer denied the application in her letter dated August 18, 1999. The subject area is described as: Leisure Woods subdivision, Unit #2; Tract 119, Lots 8-24, Blk 2; Lots 23-37, Blk 3; Lots 1-20, Blk 5; Lots 15-25, Blk 6.

The appellant appeared and argued the contentions set out in the Statement of Appeal dated August 26, 1999.

4. ORDER:

The request for a CUP to develop a community water system for 73 lots in Leisure Woods is approved subject to the conditions herein:

- a) The water system shall be constructed to meet all standards required by the Oregon State Health Division.
- b) The system service points shall be located in public right-of-ways where practical.
- c) The system shall be developed in cooperation with the Crescent-Odell Lakes RFPD (RFPD) and shall provide an access to water for fire protection. The type of access provided shall be in the discretion of the applicant after consultation with the RFPD.
- d) The system shall have no adverse impact on any wetlands.
- e) The system shall be used and operated to provide water for domestic uses only.
- f) The existing property owners in Leisure Woods shall have the opportunity to hook into the system at a reasonable cost and at a reasonable continuing price. This opportunity for existing owners to hook into this system shall only apply to the water supply, which is in the excess of that needed for the 73 primary lots.
- g) The operator of the system shall have the discretion to limit the usage of any one lot, which is hooked into the system.

PREPARED BY:

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M. Steven West, Chair



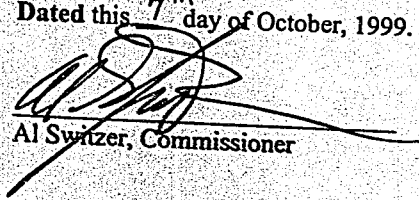
William R. Garrard, Commissioner

APPROVED AS TO FORM:



Reginald R. Davis, County Counsel
American Cash Equities
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Dated this 7th day of October, 1999.



Al Switzer, Commissioner

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APPEAL RIGHTS:

This decision may be appealed to the Land Use Board of Appeals within 21 days of the date of execution by the BOCC. Please contact the Planning Department for information as to this procedure. Failure to file an appeal within the allowed timeframe may affect your right to appeal this decision.

Return to Commissioner's Journal

State of Oregon, County of Klamath
Recorded 10/07/99, at 2:46 p.m.
In Vol. M99 Page 39970
Linda Smith,
County Clerk Fee\$ NC

State of Oregon, County of Klamath
Recorded 11/29/99, at 3:29 p.m.
In Vol. M99 Page 47029
Linda Smith,
County Clerk R.R. Fee\$ NC