

W. 4. D. 6

Memorandum Date: June 10, 2008
Order Date: July 2, 2008

TO: Board of County Commissioners
DEPARTMENT: Public Works
PRESENTED BY: Frank Simas, Right of Way Manager
AGENDA ITEM TITLE: In the Matter of Authorizing the Execution of a Farm Use and Forest Management Easement in Connection with Development of Armitage Park Campground on T. L. 17-03-09-11-00200.

I. **MOTION**

Move approval of the Order.

II. **AGENDA ITEM SUMMARY**

A Farm Use and Forest Management Easement must be executed and recorded on behalf of Lane County in fulfillment of a condition of approval for the development of campground facilities at Armitage Park.

III. **BACKGROUND/IMPLICATIONS OF ACTION**

A. **Board Action and Other History**

By Order 08-3-12-6, the Board ratified the application for development of Armitage Park Campground submitted by the Parks Division of the Department of Public Works to the Oregon Parks and Recreation and accepted the grant award in the amount of \$375,000. The project proposes construction of a full-service recreational vehicle and tent campground, including 33 individual full-service recreational vehicle sites, 2 group sites including 2 recreational vehicle sites each, 2 tent-only sites, and expansion of an existing bathroom and septic system to accommodate shower facilities. Plans and specifications have been prepared for the project and the bid opening for the project is scheduled for July 3, 2008.

Armitage Park is located in the Park and Recreation (PR-RCP) zone, and pursuant to Lane Code 16.215(3)(c) and (d), parks and campgrounds are uses subject to Planning Director Approval. In recognition of this, the Parks Division initiated PA (Planning Action) 07-6210 to obtain Conditional Use Permit approval so that construction of the project can proceed.

The conditional use has received approval from the Planning Director, and the Conditions of Approval include No. 3 as shown on Attachment 1 requiring recordation of a Farm and Forest Management Agreement pursuant to Lane Code

16.215(5)(c). The Management Agreement is in the form of a Farm Use and Forest Management Easement as shown at Exhibit A. Building permits for the improvements cannot be issued until this condition has been fulfilled.

B. Policy Issues

Execution of a Farm Use and Forest Management Easement or similar document is included in Lane Code 16.2159(5)(c) as a criterion for Director Approval for Park and Campground use in the Park and Recreation Zone. This would be similarly required of a private entity seeking to develop a campground within the PR Zone.

C. Board Goals

This project addresses the County Goal of contributing to “appropriate community development in the area of transportation and telecommunications infrastructure, housing, growth management and land development.” It also supports the Parks Master Plan Goal 1 by enhancing the variety of park and recreational opportunities for Lane County residents and visitors and Strategic Plan Core Strategy D4 – pursuit of intergovernmental revenue and private donations by applying for other public agencies’ money for the project.

D. Financial and/or Resource Considerations

There is no revenue or expense associated with this proposed action by the Board.

IV. Analysis

ORS 271.310 provides that whenever the public interest may be furthered, a political subdivision may convey all or any part of its interest to a governmental body or private individual or corporation. The statute specifies that consideration for the transfer may be cash or real property or both. In this case no payment is to be received for the granting of the Easement, but because the project cannot go forward without the Conditional Use Permit, the consideration is the real property right allowing development of the campground.

Immunity from private claims or actions based on farming or forest practice usage is already provided pursuant to ORS 30.936(1). The language contained in the attached easement lists some of the more common activities associated with farm or forest usage, and adds that said activities shall be in accordance with farm and forest usage as defined in ORS 215.203, and that said activities shall be

conducted in accordance with federal and state laws.

V. Alternatives/Options

1. Approve the Order authorizing the Execution of the Farm Use and Forest Management Easement in the form as shown as Attachment 2.
2. Deny the Order and direct staff otherwise.

VI. TIMING/IMPLEMENTATION

If the Board approves the Order, Public Works staff will process the Easement for recording.

VII. RECOMMENDATION

Option 1.

VIII. FOLLOW-UP

N. A.

IX. ATTACHMENTS

Attachment 1 – Copy of Conditions of Approval for PA 07-6201

Exhibit A – Farm Use and Forest Management Easement

EXHIBIT A

**CONDITIONS OF APPROVAL
FILE PA 07-6201**

**Questions about these conditions will not be handled at the public service counter.
Please contact Matt Laird at 541/682-4656 with any questions, unless noted otherwise.**

All of the following conditions are binding on the applicant or successive owner(s) of the parcel or successive applicant(s) who exercise this approval action.

1. Approval of Permit PA 07-6201 is valid for a two-year period from 9/4/2009. Lane County may grant one extension period of up to two years if:
 - (a) An applicant makes a written request for an extension of the development approval period;
 - (b) The request is submitted to the county prior to the expiration of the development approval period;
 - (c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period;
 - (d) The county determines that the applicant was unable to begin or continue development during the approval period for reasons that the applicant was not responsible.

Approval of an extension granted under this rule is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.

2. The proposed development shall be as represented by the applicant's written statements and the approved, 6-sheet Plan Set, unless modified by the Planning Department.
3. Complete, have notarized, and record the enclosed Farm and Forest Management Agreement with an attached "Exhibit A" depicting the legal description of the property (which must be recorded together with the Agreement at the Lane County Deeds and Records office). A legal description may be obtained from the Lane County Assessment and Taxation office if needed.
4. Prior to the expiration date in Condition #1 above, apply for the required sanitation and building permits to construct the recreational vehicle park, Phase I. The proposed development must meet all applicable building and sanitation requirements including compliance with any outstanding compliance issues for Armitage Park, obtaining a DEQ permit for sanitation system improvements, and building permits for all rv campground development.
5. Meet any applicable floodplain permit requirements prior to issuance of structural construction permits.
6. Obtain any required facility permits for development of County Roads within the park.
7. This land use permit does not cover Phase II development which includes a laundry facility and campground clubhouse. The applicant shall meeting any applicable state land use requirements for Phase II development under separate land use processes.

**IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON**

ORDER NO.

(**IN THE MATTER OF AUTHORIZING THE**
(**EXECUTION OF A FARM USE AND FOREST**
(**MANAGEMENT EASEMENT IN CONNECTION**
(**WITH DEVELOPMENT OF ARMITAGE PARK**
(**CAMPGROUND ON**
(**T. L. 17-03-09-11-00200**

WHEREAS, By Order 08-3-12-6, the Board ratified the application for a grant for development of Armitage Park Campground submitted by the Parks Division of the Department of Public Works to the Oregon Parks and Recreation Department and accepted the grant award in the amount of \$375,000; and

WHEREAS, a Conditional Use Permit is required pursuant to Lane Code 16.215(3)(c) in order to develop a campground within the PR – RCP Zone as defined in Lane Code Chapter 16; and

WHEREAS, the Parks Division of the Public Works Department applied for and has received a Conditional Use Permit identified as PA 07-6201; and

WHEREAS, the Conditions of Approval for said Conditional Use Permit include a requirement that a Farm Use and Forest Management Easement be executed and recorded prior to commencement of the construction of said campground; and

WHEREAS, ORS 271.310 provides that whenever the public interest may be furthered, a political subdivision may convey all or any part of its interest to a governmental body or private individual or corporation.

NOW THEREFORE,

IT IS ORDERED that the Board authorizes the execution of the Farm Use and Forest Management Easement in the form as shown on Exhibit A,

IT IS FURTHER ORDERED that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this _____ day of _____, 2008.

APPROVED AS TO FORM

Date: 6/20/08 Lane County

OFFICE OF LEGAL COUNSEL

Chair,
Board of County Commissioners

After Recording Return to:
Lane County Public Works
Engineering and Const. Serv. Div
3040 N. Delta Highway
Eugene, OR 97408
Attn: Frank Simas, R/W Mgr.

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

FARM USE AND FOREST MANAGEMENT EASEMENT

LANE COUNTY, a political subdivision of the State of Oregon (Grantor), is the owner of real property as described as follows:

A parcel of land lying in Sections 4, 9, and 10, Township 17 South, Range 3 West, W.M., Lane County, Oregon and being that property designated as Parcel 2 and described in that deed to the State of Oregon, by and through its State Highway Commission, recorded on Reel 154D, Instrument No. 2127 of Lane County Official Records and being that property described in those deeds to the State of Oregon, by and through its State Highway Commission, recorded September 8, 1939 in Volume 201, Page 40 of Lane County Book of Deeds, recorded on Reel 105D, Instrument No. 22032 and recorded on Reel 512R, Instrument No. 31144, both of Lane County Official Records. (A Quitclaim Deed conveying this property to the State of Oregon, by and through its Parks and Recreation Department was also recorded August 26, 1996, in Instrument no 9657928, Reel 2209R, Lane County Official Records).

Excepting therefrom the following parcel conveyed to George Skochenko and Margery L. Skochenko on August 14, 1990, being further described as beginning at a point marked by a 5/8" iron pin in County Survey File No. 26268, said pin being North 0 01 47 East 1293.74 feet from the quarter section corner between Sections 9 and 10 in Township 17 South, Range 3 West of the Willamette Meridian, said corner being marked by a 5/8" iron pin set in concrete, running thence North 49 00 00 East 23.10 feet to a point marked by a 5/8" iron pin; thence West 17.43 feet; thence South 0 01 47" West 15.15 feet to the Point of Beginning, containing 132 square feet more or less.

In accordance with the conditions set forth in the decision of the Lane County Land Management Division dated August 21, 2007, approving Planning Action PA #07-6201, for Assessor's Map and Tax Lot 17-03-09-11-00200, and pursuant to Order Number _____ of the Board of County Commissioners of Lane County, Grantor, hereby grants to the owners of all property zoned for farm or forest use (Grantees), a perpetual non-exclusive farm use and forest practices management easement as follows:

The Grantor(s), the heirs, successors, and assignees acknowledge by the granting of this easement that the above described property is situated in a farm or forest zone in Lane County, Oregon, and may be subjected to conditions resulting from farm use or commercial forests operations on lands zoned for farm or forest use. Such operations may include farm use as defined in ORS 215.203 and

management and harvesting of timber, disposal of slash, reforestation, application of chemicals, road construction and maintenance, and other accepted and customary forest management activities conducted in accordance with Federal and State Laws. Said farm use and forest management activities ordinarily and necessarily produce noise, dust, odors, smoke and other conditions, which may conflict with Grantor's use of Grantor's property for residential purposes, and Grantor(s) hereby give(s) an easement to the property owners of lands zoned for farm or forest use for the resultant impact on Grantors property caused by the farm use or forest management activities on such lands.

Grantor(s) shall comply with all restrictions and conditions for maintaining residences in farm and forest zones that may be required by State, Federal, and local land use laws and regulations. Grantor(s) will comply with all fire safety regulations developed by the Oregon Department of Forestry for residential development within a forest zone.

This easement is appurtenant to all property zoned for farm or forest use, and shall bind the heirs, successors, and assignees of Grantor(s), and shall endure for the benefit of the owners of lands zoned for farm or forest use, their heirs, successors, and assignees. The grantees, their heirs, successors, and assignees are hereby expressly granted the right of third party enforcement of this easement.

IN WITNESS WHEREOF, the undersigned have executed this instrument this _____ day of _____, 2008.

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

STATE OF OREGON)
) ss.
County of Lane)

On _____, 20____, personally appeared _____

who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon and that said instrument was signed and sealed in behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

APPROVED AS TO FORM
ON 6/23/08
[Signature]
CLERK OF COUNTY COURSE

Notary Public for Oregon

My Commission Expires: _____