

BEFORE THE PLANNING COMMISSION
OF KLAMATH COUNTY, OREGON

In the Matter of the Variance Application)
of SUN FOREST CONSTRUCTION, LTD.)
VARIANCE 13-97) ORDER

1. Nature of Application: The applicant, Sun Forest Construction, Ltd., is requesting to reduce the front setback from 25 feet to zero feet and the minimum lot size from 4,000 square feet to approximately 2,000 square feet for a single family townhouse development at the Running Y Resort northwest of Klamath Falls.

2. Names of Those Involved:

Applicant: Sun Forest Construction, Ltd.
P.O. Box 3396
Stariver, OR 97707

Planning Department: Carl Shuck, Director

Hearings Body: Klamath County Planning Commission

Participants:

No written comments were received. Testimony was received at a public hearing on October 28, 1997. There was no testimony in opposition to the request.

3. Legal Description: Located in the SW 1/4 of Section 10 and the NW 1/4 of Section 15, T38S, R8E, W.M.

4. Findings:

Article 43 in the Klamath County Land Development Code sets forth review criteria for variances. Each criterion and the associated findings are set forth below.

"The literal enforcement of this code would result in practical difficulty or unnecessary hardship to the Owner. The difficulty or hardship may arise from the property's size, shape or topography, or from the location of lawfully existing buildings or improvements."

The applicant is proposing single family detached townhome development with extensive surrounding common property. All unit owners will jointly own the common space as

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well. A "zero setback lot" with surrounding common space is merely a mechanism to accommodate townhome development.

The applicant has requested a variance to allow a 2,000 square foot minimum lot size. In reality, ± 100 units are proposed on 19 gross acres, resulting in an average area per unit of nearly 7,800 square feet.

The Klamath County Destination Resort Ordinance, the State of Oregon Destination Resort Handbook, and the adopted Master Plan for the Running Y Resort all encourage higher density and clustered development. Townhomes provide an important inventory in today's market. Buyers and visitors at the Running Y Resort need alternative products to enjoy the benefits of the Resort and the surrounding Klamath County land, businesses and amenities. Townhome development is particularly well accommodated in cluster developments with surrounding common areas. The common areas allow preservation of natural vegetation and natural features for the benefit of all. The proposed townhomes and site design accommodate the cluster development and the maximum preservation of site features. The smaller lots also provide a more affordable residential housing element for many prospective buyers.

Conformance with normal lot setbacks could prohibit clustered small lot development and all the associated benefits. By prohibiting townhome development, a practical difficulty and unnecessary hardship would be imposed on the Owner. This hardship is especially evident in light of the destination resort ordinance and its encouragement of this type of development.

The existing topography and natural vegetation on the site provides further justification under this particular criterion. As noted on the site plan, the development is proposed on a ridge top. To the north and east, the natural topography drops dramatically toward Payne Canyon. Normal lot sizes and lot setbacks would force homes onto the steep slopes to accommodate the same number of units in this vicinity. Any construction on steep slopes will result in the degradation of natural features, elimination of natural vegetation, require cut and fill slopes on steep terrain, result in unnecessary erosion, and cause an unnecessary construction scar on a naturally beautiful hillside.

Townhome development provides the best development alternative for this site and its natural features. Townhome development also increases the efficiency of infrastructure development and the associated costs. Again, prohibition of townhome development will dramatically increase the infrastructure cost for each unit, by increasing the quantity of each and making the extension of streets and utilities much less efficient. Again, prohibition of townhome development results in an undue hardship and difficulty for the developer.

"The condition causing the difficulty was not created by the applicant;"

As noted, townhome development is encouraged in the Destination Resort

Ordinance and allowed in the approved preliminary development plan for the Running Y Resort. Townhome development is further encouraged by the marketplace to accommodate the varied buying public. Destination resorts across the country have found that townhome development is a critical inventory. Because townhome development is an allowed use but potentially prohibited by lot setback standards, the applicant is trapped in conflicting regulations. The applicant does not control the marketplace, state regulations, nor Klamath County development standards. The applicant, therefore, did not cause this condition.

As noted, the natural topography, vegetation and site features support the need for cluster development. The construction of roadways, parking areas, utilities, and buildings would have to be completed on steep, tree-covered hillsides, if clustered small lot development were not allowed. Again, the developer did not cause the natural topography nor the natural features of this site.

"The granting of the variance will not be detrimental to the use and enjoyment of adjacent properties, and will not authorize uses or activities not permitted by the land use zone regulations governing the property; and"

All adjacent lands are owned or controlled by Running Y Resort, Inc. The proposed project is adjacent to a proposed townhome development and surrounded on all other sides by vacant land.

Single family detached townhome development, in a cluster configuration, is deemed compatible and similar to the nearby condominium and proposed four-plex development. The two projects are also separated by significant common area, one of the benefits of townhome development. This separation exceeds any normal lot setback.

In summary, we believe the proposed townhome development, and therefore this variance, will benefit proposed adjacent development.

"The granting of the variance will not be contrary to the intent of this code."

As noted in the introductory paragraph, the purpose of Article 43 is to allow a justifiable departure due to the particular physical surroundings, shape, topography, or other conditions not created by the Owner of the property. The purpose continues with a discussion of unnecessary hardship on the Owner. The purpose of the variance code has been discussed above at length.

Perhaps more important is the purpose of the overall Klamath County Land Development Code, prior approvals for the Running Y Resort, and the intent of destination resort development. Townhouse development is noted in the allowed uses for a destination resort. Townhouse development is encouraged in the State of Oregon Destination Resort handbook. Townhouse development provides a unique inventory desired by the public at destination resorts. Townhouse development eliminates unnecessary infrastructure costs. Townhouse development

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preserves natural features and vegetation and diminishes the construction scars upon the land. Finally, Article 88.030(I) of the Land Development Code gives the Planning Commission authority to modify Chapter 60 development standards for destination resorts.

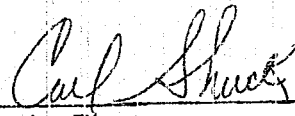
In summary, a variance to lot size and lot setbacks does in fact conform to the intent and the encouraged uses designated in the Klamath County code.

5. Conclusion and Order:

The Planning Commission finds that the applicant has satisfied the applicable review criteria set out in Article 43 of the Klamath County Land Development Code. Public notice was given in compliance with Article 32 of the Land Development Code. After reviewing the record, hearing testimony, and deliberating, the Planning Commission voted to approve Variance 13-97.

THEREFORE, IT IS HEREBY ORDERED that Variance 13-97 for Sun Forest Construction, Ltd. is approved.

DATED this 5th day of July, 1997.


Planning Director

THIS DECISION MAY BE APPEALED TO THE BOARD OF COUNTY COMMISSIONERS WITHIN SEVEN (7) DAYS FOLLOWING THE MAILING OF THIS ORDER. FAILURE TO FILE A NOTICE OF APPEAL WITHIN THIS TIME FRAME MAY AFFECT YOUR RIGHT OF APPEAL.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Commission the 5th day of November A.D., 19 97 at 11:04 o'clock A. M., and duly recorded in Vol. 1197 of Deeds on Page 36585.

FEE No Fee

By Bernetha G. Letsch, County Clerk
