

BEFORE THE PLANNING COMMISSION
KLAMATH COUNTY

IN THE MATTER OF TRACT 1358
FOR DEBORAH AND JOHN JOHNSON

APPLICATION:

The applicant requested approval of a subdivision application depicting the division of 11.23 acres into 7 rural residential one acre minimum lot sizes, and 1 commercial (CG) lot as depicted on the map referenced as Exhibit C of the Tract 1358 application. A hearing was held by the Planning Commission on APRIL 27, 1999. This application was reviewed for conformance with Article 46 of the Klamath County Land Development Code.

THOSE INVOLVED:

A notarized list of those appearing is on file. The Planning Department was represented by Kevin Russell, Planner. A quorum of the Planning Commission was present at this hearing.

LOCATION:

Northeast corner of Washburn Way and Old Midland Road.

RELEVANT FACTS:


The application is for a subdivision of 11.23 acres into 8 lots. The lots will total 7 residential, one acre minimum lot sizes, and 1 commercial lot that is 3.7 acres in size. The applicant applied and was approved for a Zone Change/Comprehensive Land Use Change (CLUP/ZC 4-99).

CONCLUSIONS AND ORDER:

The Klamath County Planning Commission, based on testimony entered upon consideration of exhibits a-n find the application in conformance with the review criteria set out in Section 46.030 of the Code.

Therefore, it is ordered the application of Deborah and John Johnson for approval of Tract 1358 is granted conditioned upon compliance with the approval letter attached as Exhibit N, and in conformance with the Preliminary Tract Map 1358.

DATED this 28th day of April, 1999


Carl Shuck, Secretary to the Planning Commission

APPEAL RIGHTS

This decision may be appealed to the Board of County Commissioners within 7 days following the execution of this order. Failure to file a notice of appeal within this timeframe may affect your right to appeal.

REQUIREMENTS FOR FINAL APPROVAL

Tract: 1358/Johnson

NOTE: THIS APPLICATION WILL EXPIRE TWO YEARS FROM THE PRELIMINARY APPROVAL DATE IF A TIME EXTENSION IS NOT MADE PRIOR TO THAT DATE.

1. Final plat shall meet all requirements of Land Development Code Sections 46.090 and 46.100.
2. A preliminary title report is to be submitted with the final plat.
3. A certification signed by the subdivider that central water supply and sanitary sewer systems will not be provided and that the Department of Environmental Quality has approved the proposed method or alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755(1)(b).
4. Relinquish abutters rights to Old Midland Road. All access shall be off of Washburn Way. Show easements as required.
5. Provide a 10,000 gallon tank with 50 gpm well pump for refill. Provide access to tank for fire equipment.
6. Preliminary approval for Tract 1358 is not effective until the effective date of CLUP/ZC 4-99.
7. Meet all of the Klamath Irrigation District criteria submitted as Exhibits H and M attached.

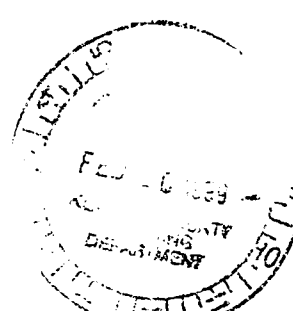
KLAMATH IRRIGATION DISTRICT

6640 K.I.D. LANE
KLAMATH FALLS, OREGON 97603
Phone: (541) 882-6661 Fax: (541) 882-4004

16151

February 11, 1999

Klamath County Planning Department
Mr. Carl Shuck
305 Main St.
Klamath Falls, OR 97601



Subject: Johnson Tract 1358

Dear Mr. Shuck:

Klamath Irrigation District (KID), on its behalf and on behalf of Klamath Basin Improvement District (KBID) submit the following items for consideration in approval of the Johnson Subdivision.

1. The developer shall form a homeowner's association which entity shall be responsible for paying all charges and assessments on the irrigation district before they become delinquent. The district shall retain its lien rights against all of the land included in the subject property that lies within the irrigation districts. No individual parcel will be segregated on the records of the irrigation districts from the parcels which are now assessed for purposes of billing and collection of district and contract charges and assessments. The landowner shall waive any rights it now has or may hereafter have to exclude any of the subject property from the districts.

2. The developer intends to design and provide a shared irrigation system. The design and construction of the system shall be subject to final approval by KID. The system must be developed for the entire area currently assessed. The shared irrigation system must be operated in perpetuity by the homeowner's association and the developer must release the irrigation districts from any claim of liability or responsibility for the operation and maintenance of the shared irrigation system. KID will deliver water to a single turnout where the homeowner's association will receive the water and thereafter manage the water.

3. The north bank of the C-4 Canal will be built up to provide adequate freeboard to prevent overflow on to the subject property and a right of way of adequate width will be conveyed to KID or the United States if required by either. The drainage system must be designed to keep water away from the general area of the C-4 Canal so that it does not undermine the integrity of the canal or cause water to build up against the canal. No drainage water of any kind will be allowed to flow into the C-4 Canal or any drain which connects to or is operated and maintained by the districts. The drainage plan when provided by the developer shall be subject to approval by KID.

4. The developer and the homeowner's association on behalf of all of the current and future landowners of the subject property shall execute a waiver and release of all claims against the districts and the United States and their successors in interest arising from seepage or overflow of the C-4 Canal and arising from weeds, pests, dusts, noise or any other activity which may be deemed a nuisance but which is related to the operation and maintenance of the KID facilities.

Ex. H

5. All water supplied by KID will be for irrigation and stock water purposes only. It will be supplied during the normal water year established from time to time by the Board of Directors of the district. Water will be limited to the rate and duty established by contract or by the State of Oregon and will be delivered upon the request of the authorized representative of the homeowner's association.

6. In the event of a breach of these terms, KID or KBID will give reasonable notice to the homeowner's association and allow the homeowner's association to cure the default unless the default reasonably could cause damage to the C-4 Canal or KID maintained structures or to other property and crops. If the homeowner's association fails to cure the default within a reasonable period of time which is deemed to be not more than 72 hours after receiving notice from KID or KBID then KID or KBID shall be entitled to cure the default and charge the cost of curing the default to the homeowner's association. If KID or KBID is not promptly paid, then they shall have the right to cause the unpaid charges to become a lien on the subject property. The districts may enforce the lien as provided by Oregon law.

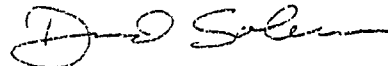
7. The preliminary plat shows one lot which is divided by the C-4 Canal. There shall be no additional crossings or bridges across the C-4 Canal between the divided pieces of the lots.

8. Any Order entered in this matter must acknowledge that the existing agricultural irrigation and drainage systems are provided for agricultural users. They are not maintained to provide water for residential use, particularly at a rural residential or urban lot size. Operations in and around irrigation and drainage facilities can be dangerous. Animals or people swimming or entering canals or drains may be subject to hazards including drowning. In addition, as is sometimes necessary, the district may use chemicals to control aquatic weeds in the canal or weeds and pests on the canal banks. Chemicals can be hazardous to the health of people and domestic animals. KID shall be held harmless and indemnified from any claim made by any current or future property owner, guest or invitee for any injury or damages resulting from the normal operations of the district in and about the C-4 Canal and other district facilities located in the area of this development.

9. The developer, homeowner's association and all lot owners shall abide by the rules, regulations and by-laws of the irrigation districts as now existing and hereafter amended.

If you have any questions concerning the issues discussed above or the impacts of this proposal on the districts please call David Solem, Manager, Klamath Irrigation District, 882-6661.

Sincerely,



David Solem
Manager

pc: Tru-Line Surveying, representing Johnson

KLAMATH IRRIGATION DISTRICT

6640 K.I.D. LANE
KLAMATH FALLS, OREGON 97603
Phone: (541) 882-6661 Fax: (541) 882-4004

16153

March 15, 1999

Klamath County Planning Department
Mr. Carl Shuck
305 Main St.
Klamath Falls, OR 97601

RE: Exclusion of Parcels, Johnson Tract 1353

Dear Mr. Shuck:

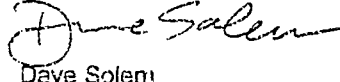
Klamath Irrigation District (KID), on its behalf and on behalf of Klamath Basin Improvement District (KBID) submit the following for consideration:

Developer has stated he will exclude the following parcels:
3909-33D0-01400
3909-33D0-01500
3909-33D0-01600

These exclusions (when completed) replace conditions (1), (2), (5), (6) and (9) of KID's February 11, 1999 letter to the Klamath County Planning Department.

If you have any questions, please call Dave Solem, Manager of KID at 882-6661.

Sincerely,

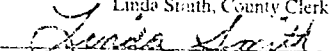

Dave Solem
Manager

STATE OF OREGON : COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the _____ 29TH day
of APRIL A.D. 1999 at 3:16 o'clock P. M. and duly recorded in Vol. M99
of DEEDS on Page 16149

FEE NO FEE

RETURN: COMM. JOURNAL

by  Linda Smith, County Clerk