

2009-006481

Klamath County, Oregon



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05/08/2009 08:39:30 AM

Fee: NO FEE

KLAMATH COUNTY CLERKS
OFFICE

Klamath County Clerk

**BEFORE THE PLANNING DIRECTOR
KLAMATH COUNTY, OREGON**

2009 MAY -7 PM 1:39

IN THE MATTER OF CONDITIONAL)
USE PERMIT 6-09 FOR JIM)
DAVIDSON TO BUILD A 24'X32')
ACCESSORY BUILDING ON)
PROPERTY ZONED (R-2) RURAL)
RESIDENTIAL, IDENTIFIED AS: R-)
3907-024D0-01300)

CUP TYPE II
ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit for an accessory building that was constructed on a 2.07-acre parcel within a Low to Medium Density Deer Winter Range Overlay. The Planning Director reviewed the request April 22, 2009 pursuant to KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, Article 44 – Conditional Use Permit, Article 51.2-Zoning, Article 57 – Significant Resource Overlay, and Article 69- Rural/Wildland Fire Safety Standards. The request was reviewed for conformance with Land Development Code section 44.030.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Leslie C. Wilson. Cindy Foster prepared the Planning Department Staff Report.

3. LEGAL DESCRIPTION:

The subject property described in Conditional Use Permit File located in the Planning Department is described as Township 39S, Range 07E Willamette Meridian, Section 24D0, Tax Lot 1300, otherwise known as 15909 Black Bear Court.

4. RELEVANT FACTS:

The applicant constructed an accessory building without Land Development permits on a 2.07 acre parcel zoned Rural Residential (R-2). The subject property is comprised of tax lots 1300 and 1400, with a restrictive covenant prohibiting the lots from being sold or otherwise separated from each other. The well serving the subject parcel is located on tax lot 1200.

The subject parcel is located in a low to medium density deer winter range overlay (Exhibit 10). Per FEMA map 410109 Panel 1200B the property is in Flood Zone C (Exhibit 5). There are no wetlands designated on the parcel. The property is within a High Fire Hazard zone on the Rural Wildland Fire Hazard Rating Map. The parcel was lawfully created via Klamath River Acres Subdivision. Black Bear Court is listed as a public road, per the Klamath County Road Index.

Notice of Administrative Review was sent to potentially affected agencies and adjacent property owners. The County Building and Public Works Departments had no comments regarding the request (Exhibit x). The County Water Master found neither water rights nor a well log for the property (Exhibit 13). No letters of remonstrance were received from potentially affected property owners.

5. FINDINGS:

All evidence submitted shows that the approval criteria as set out in the code have been satisfied. The Planning Director finds this application does conform to criteria set out in KCLDC Article 44.030(A-C) as follows:

A. The use complies with policies of the Comprehensive Plan

1. The use complies with the Klamath County Comprehensive Plan Goal 1-Citizen Involvement, Goal 2-Land Use Planning, and Goal 5-Open Space, Scenic, and Historic Areas and Natural Resources. The Klamath County Comprehensive Plan Goal 5 does not currently have the proposed development area designated as a critical habitat area by the Department of Fish and Wildlife. The site is in a Goal 5 Significant Resource Overlay for Low to Medium Density Deer Winter Range, which will require the dwelling to meet the Goal 5 conflicting use siting standards in section 57.070(C) (2) (A).

B. The use is in conformance with all other required standards and criteria of this code

1. The proposed location of the accessory building on the applicant's site plan is in compliance with the required Significant Resource Overlay siting standards in Article 57.070 C (2) (A) by demonstrating that the building will be located not more than 330 feet from an existing building. This criterion has been met.

2. To mitigate potential impacts on the wildlife, the KCLDC Article 57.070 allows for only 1 acre of fencing for a yard area that is not penetrable by large game animals. All other fencing must be for livestock control purposes. According to the application materials, a fence is not indicated on the site plan. This criterion has been met.

3. Additional requirements in KCLDC Article 57.070 designed to diminish any possible negative impacts on the deer migration herds is that the property owner control free roaming dogs and limit the use of their ATV's in the months between November and April. This condition can be met through the recordation of a restrictive covenant agreeing to do so.

4. Since the property lies within a High Fire Hazard zone, the standards of Article 69 regarding wild land fire hazard mitigation practices shall be met. This criterion can be met through a condition of approval that the applicant record a restrictive covenant attached to the subject parcel and comply with the regulations therein.

5. KCLDC Article 75 requires development in rural areas utilize either a central water supply system or individual wells. The site plan submitted with the application

indicates the well serving dwelling is located on tax lot 1200. The criterion requiring individual wells can be met through a condition of approval that the applicant submits a recorded well agreement with lot 1200.

C. The location, size, design, and operating characteristics of the proposed use will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area

1. The proposed development of a single family dwelling is compatible with the other developments in the proximity of the subject property zoned Rural Residential (R-2) in the area, and is a relatively low impact development.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Jim Davidson for approval of Conditional Use Permit 6-09 is **APPROVED** subject to all Federal and State law, rules, or policy; Klamath County Land Development Code and County Ordinances; Oregon Fire Codes and Appendices; Oregon Building Codes and Appendices; Klamath County Public Works Standards, Policies, and Procedures; and, subject to the following additional Conditions of Approval:

Condition #1

Prior to any site development, final clearances from Planning, Onsite, and Building must be obtained.

Condition #2

Prior to issuance of development permits, the applicant shall record a shared well agreement between tax lots 1200 and 1300.

Condition #3

Prior to application for site development permits, the applicant shall record a deed covenant, which will run with the land, for the control of free-roaming dogs and off-road vehicle use.

Condition #4

Prior to issuance of any development permits, the applicant shall record a restrictive covenant signifying compliance with Article 69 of the Klamath County Land Development code.

Condition #5


Prior to application for site development permits, this final order must be recorded to the subject property. The applicant will supply the Planning Department with the applicable County Clerk recording fees and the Planning Department will record the final order on behalf of the applicant.

Condition #6

This approval will expire two years from the date of approval unless

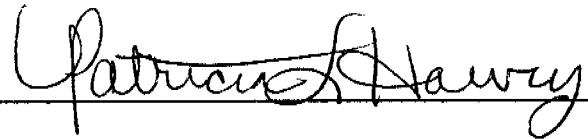
a Building Permit has been issued.

DATED this 22 day of APRIL, 2009.



Leslie C. Wilson, Planning Director

Signed & Acknowledged before me this 22nd day of April, 2009.



NOTARY PUBLIC FOR OREGON

My Commission Expires:

Oct 15, 2011



NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Klamath County Board of County Commissioners. Notice of intent to appeal a decision rendered under the procedures of the Klamath County Land Development Code shall be filed no later than seven (7) days following mailing of the final order. Failure to do so in a timely manner may affect your rights. Notice shall be in the form of a signed letter, shall state the name(s) of the party or parties appealing the decision, and must be received by the Planning Department before the close of business on the seventh day. The fee established by the Board of County Commissioners shall accompany the notice of appeal.

KCLDC ARTICLE 33.040 - STATEMENT OF APPEAL

No later than 7 days following the filing of a notice of appeal pursuant to Section 33.030, the appellant shall file with the Planning Department a written statement of grounds for the appeal explaining:

- A. How the Comprehensive Plan, Klamath County Land Development Code, or applicable State law was incorrectly interpreted or applied in the decision; or*
- B. What information in the record of decision was pertinent to the decision, but was not considered by the review body*

For more information, please contact:

**Klamath County Planning Department
Phone 1-541-883-5121 or mail at 305 Main Street, Klamath Falls, Oregon 97601**

Exhibits:

Administrative Review Application	Exhibit 1
Site Plan	Exhibit 2
Restrictive Covenant-binds TL 1300 & 1400	Exhibit 3
Warrenty Deed	Exhibit 4
FEMA Firmette	Exhibit 5
Aerial Photo of Property	Exhibit 6
Letter of Completeness	Exhibit 7
Agency Notice & Affidavit of Mailing	Exhibit 8
Adjacent Property Owners Notice	Exhibit 9
Zone Map	Exhibit 10
Affidavit of Publication	Exhibit 11
KC Building Department Comment	Exhibit 12
KC Public Works Comment	Exhibit 13
Water Master Comment	Exhibit 15