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KLAMATH COUNTY CLERKS
OFFICE

Klamath County Clerk

BEFORE THE PLANNING DIRECTOR**KLAMATH COUNTY, OREGON** 2009 MAY -7 PM 1: 40

IN THE MATTER OF CONDITIONAL)
 USE PERMIT 9-09 FOR MARK)
 HOULIHAN TO ESTABLISH A)
 SINGLE FAMILY RESIDENCE ON)
 PROPERTY ZONED (R-2) RURAL)
 RESIDENTIAL, IDENTIFIED AS: R-)
 3811-021A0-00400)

CUP TYPE II
 ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to build a dwelling on a 4.68-acre parcel within a Low-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 57 – Significant Resource Overlay, Article 69- Rural/Wildland Fire Safety Standards, and Article 75-Rural Water and Sewer Service. 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 38 South, Range 11 East Willamette Meridian, Section 21A0, Tax Lot 400; otherwise known as Klamath Falls Forest Estates, Hwy 66 Plat #2, Block 45, Lot 67.

4. RELEVANT FACTS:

The applicant requests to build a dwelling on a 4.68-acre property zoned Rural Residential (R-2). The property is located in low to medium density deer winter range (Exhibit 6). No additional Significant Resources are designated on the parcel.

The subject property is not located within a floodplain as shown on FEMA map 410109 01100B (Exhibit 8). The property is within a Medium Fire Hazard zone on the Rural Wildland Fire Hazard Rating Map. The parcel was lawfully created via Klamath Falls Forest Estates subdivision. Widgeon Drive is listed as a public road, per the Klamath

County Road Index.

The County Building Department responded that they have no issues or concerns with the project (Exhibit 11). Klamath County Public Works requires an access permit be secured prior to construction (Exhibit 12). The Klamath County Onsite Sewage Program stated that a Site Evaluation will be needed on the parcel (Exhibit 13). The State Water Master found neither water rights nor a well log for the property (Exhibit 14). 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 as follows:

KCLDC Article 44.030(A-C)

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-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 dwelling 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 dwelling will be located not more than 330 feet from an existing dwelling; or not more than 150 feet from a side property boundary and not more than 100 feet from an existing public road. The site plan submitted with the permit application indicates 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 Medium 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 central water and sewer systems, or individual wells and onsite septic systems. This criterion can be met through a condition of approval that the applicant obtains permits for an onsite septic system and water well.

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.

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 Mark Houlihan for approval of Conditional Use Permit 9-09 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 Klamath County Planning, Onsite, Watermaster, and Building Departments must be obtained.

Condition #2

Prior to construction, applicant must obtain an access permit from Klamath County Public Works Department.

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

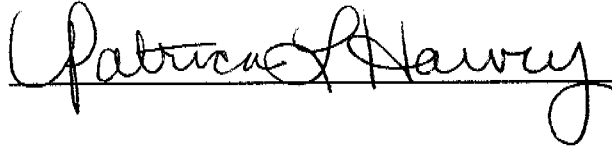
This approval will expire two years from the date of approval unless a Building Permit has been issued.

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
Warrenty Deed	Exhibit 2
Site Plan	Exhibit 3
Tax Lot Map	Exhibit 4
Correspondence	Exhibit 5
Owner Authorization for Agent	Exhibit 6
Zoning Map	Exhibit 7
FEMA Firmette	Exhibit 8
Notice of Administrative Review & Mailing Affidavit	Exhibit 9
Agency Notice & Mailing Affidavit	Exhibit 10
KC Building Department Comment	Exhibit 11
KC Public Works Comment	Exhibit 12
Onsite Sewage Program Comment	Exhibit 13
KC Water Master's Comment	Exhibit 14