

2009-008172

Klamath County, Oregon



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Return Robert Sloan

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BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF FMD 1-09 FOR)
ROBERT SLOAN III TO ESTABLISH)
A FARM DWELLING FOR A)
WORKER RELATIVE ON PROPERTY)
ZONED (EFU-G) EXCLUSIVE FARM)
USE, IDENTIFIED AS: TAX ACCT. R-)
3606-00300-00400)

FMD TYPE II
ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Farm Management Dwelling to establish a farm dwelling for a relative on approximately 200 acres within in an Exclusive Farm Use zone. The Planning Director reviewed the request May 27, 2009 pursuant to KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, Article 54 – Exclusive Farm Use, Article 57 – Significant Resource Overlay, Article 59 – Flood Hazard Overlay, and Article 69 – Wildland Fire Safety Standards. The request was reviewed for conformance with Land Development Code Sections 54.050 and 54.060.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Leslie C. Wilson. Alyssa Boles, Planner, prepared the Planning Department Staff Report.

3. LEGAL DESCRIPTION:

The subject property described in Farm Management Dwelling Permit File located in the Planning Department is described as Township 36, Range 06, Section 03; Tax Lot 00400.

4. RELEVANT FACTS:

The applicant intends to place a home on the subject property for his son to live in and perform daily farm operations. The property is within the Agricultural plan designation and has an implementing zone of EFU-G. Surrounding land uses include additional agricultural use, some residential use, and federally owned land. The subject parcel is approximately 40 acres, but the farm operator owns over 200 acres total. The subject parcel does not contain high value farmland (Class IV, Exhibit 12) and is in farm tax deferral (Exhibit 6). The subject parcel lies within the High Wildfire Hazard area, so the applicant must comply with the requirements of KCLDC Article 69. Goal 5 wetlands created from the Upper Klamath Marsh exist on the parcel, but per the applicant site plan, the development area is located outside of the wetlands area (Exhibit 10). Notice was sent to Oregon Department of State Lands regarding the development. The majority of the property lies in Flood Zone A, per FEMA Firmette 410109 0870B

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(Exhibit 13). Any construction in that portion of the property will require a pre-construction and post-construction Flood Elevation Certificate. Four Mile Creek, a Goal 5 protected Class I Stream and fish habitat, runs through the subject property. Development will not impact the creek as it is approximately 550 feet away. The parcel was lawfully created per a pre-1976 deed; Vol. M73 Page 1863, on September 4, 1973 (Exhibit 4).

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 the criteria set out in KCLDC Article 54.050(A-G) and 54.060(1-5) as follows:

KCLDC 54.050(A-H)

- A. The subject parcel was lawfully created by deed number, Vol. M73 Page 1863, dated September 4, 1973.
- B. The subject parcel will obtain approval for a septic system and well in accordance with Article 75 of the KCLDC. Conditions can be placed on the applicant to provide copies of septic system approval and a well log to the Planning Department. The subject parcel has legal access via Rocky Point Road, a public road. The subject parcel has fire protection provided by Harriman Rural Fire Protection District (Exhibit 5).
- C. The proposed dwelling will be used as a residence for a farm operator relative to live on the property. The farm is used for livestock grazing, cows. The use is consistent with the zoning and does not go against the intent of Comprehensive Plan, Goal 4 or Article 54 of the KCLDC.
- D. Per the tentative site plan (Exhibit 2), the proposed placement of the dwelling and accessory structures conforms with Article 62 of the KCLDC. Water and sewer service will be required per KCLDC Article 75. Applicant must record the Fire Siting restrictive covenant to meet KCLDC Article 69 standards. Applicant must supply pre-construction and post-construction flood elevation certificates to demonstrate compliance with KCLDC Article 59.
- E. Per the site plan submitted by the applicant, the proposed dwelling is to be placed approximately 130 feet west of the existing dwelling. The new septic system is proposed to be placed approximately 100 feet west of the existing septic system. All development is at the southwestern end of Tax Lot 400, which appears to be out of the wetlands area, based on staff review of the applicant's site plan measurements. Because of the close proximity to the existing dwelling, impacts to the overall use of the property seem minimal.
- F. The placement of the home is on the southwesterly end of the property, next to the Evergreen Acres Subdivision. Additional housing next to a residential subdivision should have minimal impact.
- G. Wetlands are located on the property and notice of the application was sent to the Oregon Department of State Lands.

- H. Conditions have been placed on this application and must be met before final Planning approval is issued.

KCLDC 54.060(C)(1-5)

1. The applicant's son will occupy the accessory dwelling to help with daily livestock grazing operations, per phone conversation with the applicant on April 30, 2009.
2. The applicant currently occupies the primary farm dwelling, per phone conversation with the applicant on April 30, 2009.
3. The accessory dwelling is proposed to be placed 130 feet away from the existing dwelling, per the applicant site plan (Exhibit 2).
4. This criteria is not applicable because the accessory dwelling is to be occupied by the applicant's family member.
5. The accessory dwelling is being placed on a tract of land totaling over 200 acres, which has been verified by reviewing the legal description.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Robert Sloan III for approval of FMD 1-09 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, Building, On-Site, and Public Works must be obtained.

Condition # 2

Submit proof of compliance with KCLDC Article 75 to the Planning Department, by demonstrating that on-site sewer and water facilities are provided.

Condition # 3

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

Condition #4

Farm Dwelling must be built in the location specified on the site plan (Exhibit). Any variation from this location may require a new review of this application.

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

Applicant must submit a pre-construction and post-construction Flood Elevation Certificate to demonstrate compliance with KCLDC Article 59 standards.

Condition # 7

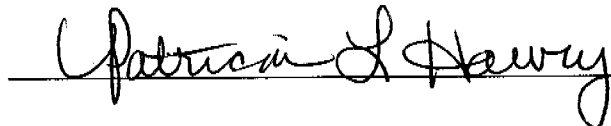
This approval will be void two (2) years from the date of approval unless a Building Permit has been issued. The applicant may apply for one 1-year time extension with the appropriate application and required fee.

DATED this 27 day of MAY, 2009.



Leslie C. Wilson, Planning Director

Signed & Acknowledged before me this 27th day of May, 2009.



NOTARY PUBLIC FOR OREGON

My Commission Expires:

Oct 15, 2011

