

2009-009329

Klamath County, Oregon



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Fee: \$41.00

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

IN THE MATTER OF CUP 24-09 FOR)
DAVID FARRIS TO ENHANCE)
WETLANDS AND FISH HABITAT NEAR)
THE WOOD RIVER, A CLASS I STREAM)
ON PROPERTY ZONED (EFU-G))
EXCLUSIVE FARM USE, IDENTIFIED)
AS: R-3307-V0000-04800-000)

**CUP TYPE II
ADMINISTRATIVE
FINAL ORDER**

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit restore and enhance wetlands and fish habitat near the Wood River on property zoned Exclusive Farm Use. The Planning Director reviewed the request June 24, 2009 pursuant to KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, Article 44 – Conditional Use Permit, and Article 57 – Significant Resource Overlay.

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 Conditional Use Permit File located in the Planning Department is described as Township 33 South, Range 07 ½, Sections 22 & 27 East Willamette Meridian, Tax Lot 4800.

4. RELEVANT FACTS:

The applicant intends to enhance wetlands and fish habitat on his property, abutting the Wood River. The applicant also wishes to add wood debris into the Wood River. The restoration of the site would enhance a total of approximately 22 acres. This Conditional Use Permit is required because Wood River is Goal 5 protected Class I Stream and Fish Habitat. The subject parcel contains wetlands and is partially located in a Flood Zone A per FEMA map 410109 0600B (Exhibit 17). The subject parcel is lawfully created per deed number 351-0364, dated April 1, 1967 (Exhibit 8). The applicant has access via an access easement (Exhibit 9)

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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 conforms to criteria set out as follows:

KCLDC Article 44.030(A-C)

- A. The use complies with the Klamath County Comprehensive Plan Goal 1-Citizen Involvement, Goal 2-Land Use Planning and promotes Goal 5-Open Spaces, Scenic and Historic Areas, and Natural Resource, more specifically Policies 3, 4, 9, and 16, protecting and enhancing riparian areas.
- B. The proposed operation can be brought into compliance with Article 57 and Article 59 of the Klamath County Land Development Code through conditions of approval.
- C. There should be minimal impact to the surrounding area because the project is entirely contained on property owned by the applicant. Flood waters are not to be increased. Applicant has supplied a no-rise certificate to demonstrate compliance with KCLDC Article 59. A no-rise certificate is certified by an engineer to ensure that there are no other impacts to the surrounding properties and no rise in the level of the floodway.

KCLDC Article 57.060(A-D)

- A. The enhancement of wetlands and fish habitat and the addition of woody debris into the river would not alter the significance of the resource because the applicants work will increase water quality into the Wood River, increase functional wildlife habitat, improve in stream habitat, and slow property loss. Obtaining permits from State and Federal agencies for removal and fill in wetlands further regulates the impacts to the resource. The applicant has applied for permits with US Army Corp of Engineers and Oregon Department of State Lands. The applicant will need to provide the Planning Department with copies of all final permits issued by State or Federal agencies.
- B. No threatened or endangered species are known to exist in that area. Oregon Department of Fish and Wildlife was notified of this project and submitted a comment stating they will submit comments to Oregon DSL (Exhibit 11).
- C. The project would be limited to the USFW in-water work period restrictions. All construction projects are temporary in nature and are also limited to the same in-water work period. The applicant has made an effort to keep things in their natural vegetative state or to improve the vegetative state.

- D. There will be some temporary impacts to the resource, such as excavators, a dozer, and dump trucks moving around the site. The applicant states the impacts will be limited by working during late summer months and the site conditions are driest. Impacts would be temporary and not have a permanent adverse impact on the river. A no-rise certificate also demonstrates that the project would not have permanent adverse impact.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of David Farris for approval of CUP 24-09 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

Applicant must supply copies of all final State and Federal permits to the Planning Department.

Condition #2

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 # 3

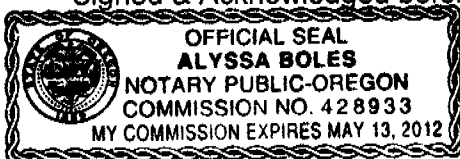
This approval will expire two years from the date of approval unless final Planning approval has been issued. The applicant may apply for up to three 1-year time extensions with the appropriate application and required fee.

DATED this 24 day of JUNE, 2009.



Leslie E. Wilson, Planning Director

Signed & Acknowledged before me this 24 day of June, 2009.





NOTARY PUBLIC FOR OREGON

My Commission Expires:

5-13-2012

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 12 days following mailing of the final order (ORS 215.416). 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 12 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:

Conditional Use Permit Application	Exhibit 1
US Army Corp/DSL Joint Permit Application	Exhibit 2
Wetland Delineation Report	Exhibit 3
Well Log	Exhibit 4
Ownership Deed	Exhibit 5
CUP for Homesite Approval	Exhibit 6
Preliminary Title Report	Exhibit 7
Lawful Creation Deed	Exhibit 8
Access Easement Documentation	Exhibit 9
DEQ Variance Information	Exhibit 10
FEMA LOMA	Exhibit 11
Flood Way Certification	Exhibit 12
NHPA Compliance Letter	Exhibit 13
Site Maps	Exhibit 14
USGS Geological Survey	Exhibit 15
Zoning Map	Exhibit 16
FEMA Firmette	Exhibit 17
KC Public Works Comment	Exhibit 18
US Army Corp Comment	Exhibit 19
SHPO Comment	Exhibit 20
State Fire Marshal Comment	Exhibit 21
Central Klamath CAT Comment	Exhibit 22
ODFW Comment	Exhibit 23