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## BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF CONDITIONAL )  
USE PERMIT 23-09 FOR RHONE )  
BOYLE-WASOSKI TO ESTABLISH A )  
SINGLE FAMILY DWELLING ON )  
PROPERTY ZONED (R-2) RURAL )  
RESIDENTIAL, IDENTIFIED AS: R- )  
3613-005C0-03200 )

CUP TYPE II  
ADMINISTRATIVE  
FINAL ORDER

### 1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to place a single family or manufactured dwelling on a 5.67-acre parcel within a Low-Medium Density Deer Winter Range Overlay. The Planning Director reviewed the request August 3, 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 all applicable elements of the Klamath County Land Development Code.

### 2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Leslie C. Wilson. Bill Adams, AICP, Planner III/Project Manager 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 36 South, Range 13 East Willamette Meridian, Section 5C0, Tax Lot 3200; otherwise known as Ferguson Mountain Pines Subdivision, Block 8, Lot 14.

### 4. RELEVANT FACTS:

The applicant requests to place a single family or manufactured dwelling on a 5.67-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 0975 B (Exhibit 5). The property is within a Medium Fire Hazard zone on the Rural

Wildland Fire Hazard Rating Map. The parcel was lawfully created via Ferguson Mountain Pines subdivision. Rio Vista Drive is adjacent and provides direct access to the lot. This road is listed as a public road – privately maintained, per the Klamath County Road Index.

The County Building Department responded that they have no issues or concerns with the project (Exhibit 7). Klamath County Public Works states they have no concerns with the proposal (Exhibit 8). The Klamath County Onsite Sewage Program stated that a Site Evaluation will be needed on the parcel (Exhibit 9). 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 57.070.2.A.D 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 barbed wire fence and a field fence are proposed on property lines as indicated on the site plan. This criterion will be met based on a proposed condition that applicant meet the fencing requirements.
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 will 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 a domestic 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 Rhone Boyle-Wasoski for approval of Conditional Use Permit 23-09 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, Building, Public Works Departments and the WaterMaster must be obtained.***

**Condition #2**

***Prior to issuance of any development permits, the applicant shall record a restrictive covenant signifying compliance with Article 69 (Rural/Wildland Fire Safety Standards) of the Klamath County Land Development code.***

**Condition #3**

***Prior to issuance of any development permits, the applicant shall***

**record a restrictive covenant signifying compliance with the setback and fencing provisions of Article 57.070.C.2.A and D.; and signifying compliance with the control of free-roaming dogs and restriction of off road vehicle use from November to April provisions of Article 57.070.C.2.E and F.**

**Condition #4**

**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.**

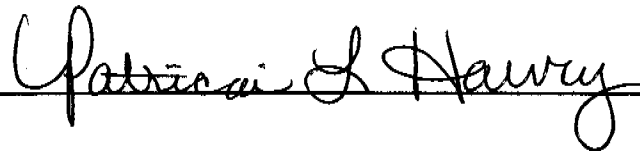
**Condition #5**

**This approval will expire two years from the date of approval unless a Building Permit has been issued or this Conditional Use Permit is extended.**

DATED this 3rd day of AUGUST, 2009.

  
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Leslie C. Wilson, Planning Director

Signed & Acknowledged before me this 3rd day of August, 2009.

  
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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
Ferguson Mountain Pines Subdivision Plat	Exhibit 3
Quitclaim Deed	Exhibit 4
FEMA FIRM Map	Exhibit 5
Zoning Map	Exhibit 6
KC Building Department Comment	Exhibit 7
KC Public Works Comment	Exhibit 8
Onsite Sewage Program Comment	Exhibit 9