

2009-011440

Klamath County, Oregon



00071654200900114400100106

08/26/2009 09:45:58 AM

Fee: \$66.00

After recording return to:

Iris Glen Townhomes, LLC
c/o Luckenbill-Drayton
1007 NW Rimrock Drive
Redmond, OR 97756

RESTRICTIVE COVENANT

Known all men by these presents that Iris Glen Townhomes, LLC, an Oregon Limited Liability Company, hereby grants this restrictive covenant in favor of the City of Klamath Falls, and for the benefit of the public, prohibiting the individual sale of any Parcels, or any portion thereof, legally described in Exhibit A. The intent of this Restrictive Covenant is to ensure that all parcels described in Exhibit A are "held together by a single property owner," as required by the City of Klamath Falls Planning Commission FINAL ORDER in proceeding number 5-DR-09, attached hereto as Exhibit B. This Restrictive Covenant shall be binding on and inure to the benefit of the Iris Glen Townhomes, LLC, the City and their respective successors and assigns. By signing below, the City of Klamath Falls accepts the grant of restrictive covenant made herein.

Iris Glen Townhomes, LLC

By: Claudette M. Luckenbill
Claudette M. Luckenbill, Managing Member

STATE OF OREGON)
County of Deschutes) ss.

Subscribed and acknowledged before me this 17th day of August 2009 by Claudette M. Luckenbill as Managing Member of Iris Glen Townhomes, LLC, an Oregon Limited Liability Company, as her voluntary act and deed.



BEFORE ME:

Joyce Jones
Notary Public for Oregon
My Commission Expires: 5-4-2012

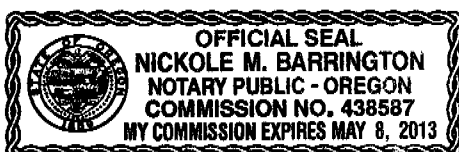
ACCEPTED BY THE CITY OF KLAMATH FALLS

By: Jeff Ball
Jeff Ball, City Manager

Attest: Elisa Olson
Elisa Olson, City Recorder

STATE OF OREGON)
County of Klamath) ss.

On the 20th day of August, 2009, personally appeared Jeffrey D. Ball and Elisa D. Olson, who, each being first duly sworn, did say that the former is the City Manager and the latter is the City Recorder of the City of Klamath Falls, an Oregon municipal corporation, and that this instrument was signed on behalf of said municipal corporation; and each of them acknowledged said instrument to be the City's voluntary act and deed.



BEFORE ME:

Nickole M. Barrington
Notary Public for Oregon
My Commission Expires: 5-8-2013

EXHIBIT "A"

File No.: 7021-1238993

Policy No.: 1238993

Real property in the City of Klamath Falls, County of Klamath, State of Oregon, described as follows:

PARCEL I

A PORTION OF LOTS 4, 5, 6, BLOCK 11, DIXON ADDITION TO THE CITY OF KLAMATH FALLS, IN THE COUNTY OF KLAMATH, STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST SIDE OF HILLSIDE AVENUE AT A POINT 36 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 6, BLOCK 11, DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON; RUNNING THENCE SOUTH ALONG THE EAST SIDE OF SAID HILLSIDE AVENUE A DISTANCE OF 37 FEET; THENCE EAST AND PARALLEL WITH THE NORTH LINE OF SAID LOT 6 TO THE NORTHWESTERLY LINE OF FORT KLAMATH ROAD TO A POINT WHERE SAID LINE INTERSECTS WITH A LINE DRAWN EAST FROM SAID POINT OF BEGINNING AND PARALLEL WITH THE NORTH LINE OF SAID LOT 6; THENCE WEST TO THE POINT OF BEGINNING, BEING A TRACT OF LAND FRONTING 37 FEET ON SAID HILLSIDE AVENUE AND EXTENDING ACROSS LOTS 6, 5 AND 4 OF SAID BLOCK 11 TO FORT KLAMATH ROAD, SITUATE IN SOUTHWEST QUARTER OF SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, TOGETHER WITH AN EASEMENT FOR A DRIVEWAY ACROSS THE SOUTHERLY AND EASTERLY SIDE OF SAID LOT 4, BLOCK 11, CONVENIENTLY WIDE FOR A DRIVE FROM THE ALLEY IN THE REAR OF SAID LOT 4.

PARCEL II

LOT 3 BLOCK 11, DIXON ADDITION TO KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL III

LOTS 4, 6 AND 7 IN BLOCK 12 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

PARCEL IV

LOTS 8 AND 9 IN BLOCK 12 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON. EXCEPTING THEREFROM PORTIONS CONVEYED TO STATE OF OREGON BY AND THROUGH ITS STATE HIGHWAY COMMISSION; PORTION LOT 8 BY DEED RECORDED SEPTEMBER 22, 1944 IN VOLUME 169, PAGE 194; AND PORTION OF LOT 9 BY DEED RECORDED OCTOBER 04, 1944 IN VOLUME 169, PAGE 458, DEED RECORDS OF KLAMATH COUNTY, OREGON.

PARCEL V

LOTS 10 AND 11 IN BLOCK 12 OF DIXON ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE RECORDS OF KLAMATH COUNTY, OREGON.

NOTE: This legal description was created prior to January 1, 2008.

APN: R375356 and R375338 and R375436 and R375463 and R375472 and R375481 and R375490 and
R375506 and R375515

Unofficial
Copy

Exhibit "B"

City of Klamath Falls Planning Commission FINAL ORDER

Date: April 28, 2009

To:

Luckenbill-Drayton Assoc., LLC
1007 NW Rimrock Drive
Redmond, OR 97756

Cc:

Carleton Hart Architecture
322 NW 8th Avenue
Portland, OR 97209

Tara Pritchard
13750 Spring Lake Rd
Klamath Falls, OR 97603

ZCS Engineering
900 Klamath Ave
Klamath Falls, OR 97601

Rex Turner, Building Official
Klamath County Building Dept.
305 Main Street
Klamath Falls, OR 97601

Basin Transit Service
1130 Adams Street
Klamath Falls, OR 97601

City Engineering Division
226 S Sixth Street
Klamath Falls, OR 97601

Klamath County Fire District No. 1
143 N Broad Street
Klamath Falls, OR 97601

Kimberly Parducci
112 Monterey Drive
Medford, OR 97504

Gerardo and Karina Mendez
2130 Herbert Street
Klamath Falls, OR 97601

Marjorie David
Estate of Lars Holger Strid
c/o Ed Keady – Remax Hallmark Realty
404 Main Street
Klamath Falls, OR 97601

Tom Darrah
108 Hunter Ct.
Klamath Falls, OR 97603

Robert Bogatay
P.O. Box 493
Klamath Falls, OR 97601

RE: Design Review for Luckenbill-Drayton Assoc., LLC – File # 5-DR-09

SUMMARY AND BACKGROUND

The applicant, Luckenbill-Drayton Associates, LLC, proposed to develop a multi-unit affordable housing complex on the northeast corner of Main Street and Crater Lake Parkway. The development includes 6 buildings with a total of 36 rental units and a single family home to be occupied by the manager of the complex.

The proposed development is accessed from Old Fort Road and an alley that transects the subject property. The closure of the south end of the alley adjacent to Main Street as shown on the proposed site plan, and supported by City staff, will require approval by the City Council.

The site plan includes on-site and on-street parking, landscaping, storm-water detention, playgrounds, snow storage areas and solid waste receptacles. The proposed uses, multi-family residential dwellings (apartments) and a single family residence are permitted in the Apartment Residential (A) zone and Single Family Residential (SF) zone, respectively.

The property can be found on Assessor's Map 3809-28DC Tax Lots 10200, 10500, 10600, 10700, 10800, 10900, 11000, 11200, & 11500. The property can also be described as Lots 4, 6, 7, 8, 9, 10 & 11, Block 12, Dixon Addition and Lot 3, Block 11, Dixon Addition. The proposed single family residence is located on portions of Lots 4, 5 & 6, Block 11, Dixon Addition.

The Planning Commission held a public hearing April 27, 2009, took testimony regarding the Criteria for a Design Review and approved the proposed development with conditions. The Planning Commission also passed a motion recommending the full closure of the end of the alley adjacent to Main Street to the City Council.

DECISION

After considering all staff and agency comments, holding public hearings, and reviewing various data, the Design Review is hereby approved, based on the following criteria and findings:

REVIEW CRITERIA, FACTS AND ANALYSIS AND FINDINGS

This proposal is being reviewed according to the provisions of the Klamath Falls Community Development Ordinance (Chapters 10-14), specifically Sections 11.050 to 11.094, regarding Design Reviews. The following criteria shall be used to approve or deny an application for Design Review:

Criterion 1 – All applicable City ordinances have been met or will be met by the proposed development.

Facts and Analysis – The comments from Planning and Engineering listed in the Agency Comments section of this report identify relevant sections of the CDO, City of Klamath Falls Public Works Engineering Standards (CKFPWES), and Klamath Falls City Code, and address whether or not the application meets the requirements. The application meets many of the requirements of the CDO as submitted and can be made to meet the remainder of the requirements with the conditions listed below.

Proposed Findings – This proposed development has met or will meet all applicable City ordinances with the conditions as outlined. **This criterion is met with conditions.**

Criterion 2 – Adequate capacity of City facilities for water, sewer, paved access to and through the development, electricity, storm drainage and adequate transportation can and will be provided to and through the subject property.

Facts and Analysis – Portions of the comments from all of the agencies who responded to this proposal address Criterion 2. All concerns presented by each of the agencies have been addressed in the Conditions section of this report. Avista Utilities (natural gas), PP & L (power), Charter Communications (cable TV and internet), and Qwest (phone and fiber) have provided "will serve" letters to the applicant for this development.

Proposed Findings – There is no evidence at this time that there is an inadequate capacity of City facilities for water, sewer, paved access to the development, electricity, storm drainage and adequate transportation can and will be provided to and through the subject property so long as the conditions listed below in the Conditions section are met. **This criterion is met with conditions.**

CONDITIONS

➤ **Prior to the issuance of the Development Permit:**

- 1) The applicant shall submit for review and approval to City Engineering:
 - a Site Construction Permit (SCP),
 - a small site grading/erosion control plan,
 - a storm water site plan, and
 - a DEQ 1200-C permit.
- 2) The applicant shall submit a set of engineering design/construction plans showing any public improvements, grading/erosion control and on-site storm water detention; these improvements shall meet the requirements of the City of Klamath Falls Public Works Engineering Standards (CKFPWES) current edition.
- 3) The applicant shall address and incorporate the following conditions into the engineering design/construction plans:
 - a. Curbs/gutter shall be installed in areas of driveway construction, changes and/or elimination.
 - b. The City storm main line and appurtenances shall be extended /upgraded as shown on the plans submitted for the engineering variance. The existing storm lines are being televised by the City Wastewater Division to determine the locations of any existing service line which may tie into the main line. This information will be given to the engineer of record to be incorporated into the design plans.
 - c. The existing City sanitary sewer main lines will be televised by the City Wastewater Division to determine whether or not any repairs will be required prior to street paving. This information will be given to the engineer of record to be incorporated into the design plans. If repairs are needed, they will be the responsibility of the City Wastewater Division.
 - d. The City has reviewed and evaluated the submitted Water Connection Data Report and has determined that domestic water and fire suppression can be serviced to this site, as long as the project makes all on-site improvements identified on the Iris Glen design/construction plans and pay for any meter installation and water system development charges.
 - e. City Wastewater and Engineering Divisions have reviewed and evaluated the submitted Wastewater Connection Data Report, along with our Wastewater Consultant's final conclusion, and have determined that we have sufficient capacity in our downstream sewer system to service this development. All sewer service connections and other related sewer construction shown on the design/construction plans shall be in accordance with the City's Public Works Engineering Standards pertaining to sewer design and construction.

- f. The Traffic Impact Study (TIS) provided with the Design Review application has been reviewed by the City, the City's traffic engineering consultant, and the Oregon Dept. of Transportation (ODOT). The City and the ODOT roadway systems have adequate capacity to accommodate this development. All street improvements shown on the design/construction plans shall be in accordance with the City's Public Works Engineering Standards pertaining to street design, with the exception of the portion of Old Fort Rd which received an Engineering Variance for design.
- g. An Engineering Variance was submitted by the applicant for the configurations of Old Fort Rd. and the City alley adjacent to this site. The variance included 90 degree parking, landscape islands, driveway turnaround for emergency vehicles, alley and street tilt sections, street termination without cul-de-sac, curb type, and pavement width.

After City acceptance of this entire project, the City will maintain all of the asphalt and curbing within the public ROW, as well as the City utilities. The developer shall be responsible for maintenance of all striping, signage, sweeping, plowing, private utilities, etc. The applicant shall record a Development Agreement with the Klamath County Clerk's office agreeing to provide said street maintenance.

The following comments are conditions of City approval of the Variance and are intended to address only the proposed alterations to City Engineering Standards, not all of the contents shown within the plan submittals:

- Type "B" curbs are acceptable on the north side of Old Fort Rd., and around the planter islands on the south side. The remaining curb/gutter shall be type "A."
- Type "B" curb shall be constructed on the northeast return of the alley in block 11 of Dixon Addition, and shall extend along Old Fort Rd. in an easterly direction, terminating in line with the ditch inlet on the north side of the street.
- Type "A" curb/gutter shall be constructed on the eastern side of the alley in block 12 of Dixon Addition at Old Fort Rd., typically encompassing the curve PC/PT with some tangent overlap. Details can be discussed at the pre-design meeting.
- The sidewalk along Old Fort Rd. (6.5 foot width is approved) shall project easterly, through the planter island, and terminate at a public sidewalk curb ramp, on the west side of the alley crossing.
- Per the City variance meeting the parking spaces shall be 19 feet long. Maintain the pavement width (26 feet) of the travelled way north of the parking spaces.
- Extend the paving of Old Fort Rd. further to the west, within public ROW for extra turnaround room. Add "no parking" signs at this western terminus of Old Fort Rd.
- Extend Old Fort Rd. (complete reconstruct of the travelled way and shoulders) all the way east to the Laguna St. intersection. Increase the pavement width to 28 feet, incorporate 2 foot wide shoulders, and a crown section. The pavement does not necessarily need to be centered within the ROW. If you encounter topographical constraints in constructing the 28 foot pavement width; we will consider 26 feet.

- Pending City Council approval of terminating the alley in block 12 at its southern end; add barricades to the end of the alley, and the terminus of Old Fort Rd.; and add all signs required per the Manual on Uniform Traffic Control Devices (MUTCD), current edition. The signs (or equivalents) will include “not a through street”, “no parking”, etc. Determine if the south end of the alley, per MUTCD, requires a barricade or can it terminate with boulders and other landscaping features.
- 4) The applicant shall submit plans that identify both existing and proposed water services, fire service and irrigation back-flow devices. Any water SDC that needs to be paid prior to issuance of the Development Permit will be determined by the City, which is based on the size and number of meters.
- 5) The applicant will be required to have a signed set of the Site Construction Permit drawings, from City Engineering office, prior to the issuance of the Site Construction Permit.
- 6) The applicant shall verify the boundaries of the triangular lot/ODOT property south of the Crater Lake Pkwy. /Hillside Ave. intersection. There appears to be a discrepancy between the submitted site plan and the assessors map. If any changes are required staff will make a determination of approval.
- 7) Prior to submitting the design / construction plans for review, the applicant shall contact the City Engineering Division office to schedule a pre-design meeting.
- 8) The applicant shall submit 6 copies of the engineering design / construction plans and 4 copies of the private storm reports to the City Engineering Plans Examiner at the City Engineering Division office (upstairs at 226 South 5th St.).
- 9) The applicant shall pay shall pay parks and sewer SDC's based on multi-family residential rates for buildings “A” through “E”.
- 10) The applicant shall determine whether to abandon, reuse or reactivate service for building “F”. The lot on which building “F” will be constructed currently has a meter box and service line for a 5/8” meter. This service can either be reused by reactivating the service at the City Utility Billing Dept. (541-883-5301) or the meter will be abandoned by the City Water Division for \$500. A water SDC credit of \$2,379 applies, as does a sewer SDC credit of \$1,977 and a parks SDC credit of \$1,115.
- 11) The applicant shall apply for and record an encroachment permit (application attached) for all private utilities crossing the City right-of-way (ROW).
- 12) In order to develop the subject property as proposed the applicant shall either:
 - Vacate the existing lot lines by re-plating the subject property; or
 - record a deed restriction with the County Clerk's office that prohibits the individual sale of any of the subject lots independent of the rest of the property. This restriction shall insure that all of the subject lots are held together by a single property owner.

- 13) The applicant shall submit a revised parking plan showing the following:
 - Extension of the parking spaces toward the access aisles to provide a minimum length of 19' for all standard parking spaces.
- 14) The applicant shall provide detailed information about the "vegetated screen" between buildings B & C and Crater Lake Parkway.
- 15) The "vegetated screen" shall be relocated as near the buildings and the 20' front yard setback as practical to minimize the impact on Crater Lake Parkway and to maximize the screening effect.

➤ **General Conditions:**

- 16) All contractors working on this job shall maintain a valid city business license.
- 17) The approved vehicle parking layout shall be striped with four inch-wide painted lines, wheel stops or curbing shall be installed to prevent vehicles from driving over landscaping, unpaved areas, and sidewalks. The ADA accessible spaces shall be constructed to meet all requirements of the Oregon Department of Transportation Disabled Parking Standards for width, location, striping and signage. The bicycle parking shall be distributed evenly throughout the complex with bicycle parking provided for each of the 5 buildings. All required parking shall be completed prior to occupancy of any of the proposed buildings.
- 18) All trash and recycling facilities as shown on the approved site plan shall be installed prior to occupancy of any of the proposed buildings.
- 19) All areas of the alley and Old Fort Rd to be improved for use by this development shall be the responsibility of the applicant/property owner to maintain.
- 20) The revised landscaping plan shall be reviewed and approved by the Planning Division prior to the installation of any landscaping. All required landscaping shall be installed prior to occupancy of any of the proposed buildings.
- 21) All playground facilities as shown on the approved site plan shall be installed prior to occupancy of any of the proposed buildings.
- 22) Building permit submittal shall include a comprehensive code evaluation, drawings, calculations, and specifications for the project. All design documents shall be prepared and stamped by an Architect or Engineer licensed by the State of Oregon to practice as such.
- 23) Building Permit application shall include site plan and development approvals from City of Klamath Falls Planning and Engineering Divisions. Any variations to the site plan require re-approval by the City of Klamath Falls prior to issuance of building permit(s).
- 24) No work shall commence prior to plan review and issuance of the appropriate building and trade permits.

- 25) Phased construction and/or deferred submittals require approval of the Building Division and submittals for such work shall follow established policy for plan review. No work shall commence prior to review and approval of the associated project phase.
- 26) A fence permit (no fee) must be submitted, reviewed, and approved prior to installation of any fence.
- 27) A sign permit must be reviewed and approved for each sign prior to the placement of any new sign on the property.
- 28) Refer to the attached Engineering Fee Schedule to determine the fees related to this project. The applicant shall pay all required fees.
- 29) If the City Council denies the request to block the south end of the alley adjacent to Main St all obstructions shall be removed from the alley on the site/landscaping plan and the alley intersection with Main Street shall be constructed in conformance with the City of Klamath Falls Public Works Engineering Standards.
- 30) The applicant shall work with Staff to implement traffic calming devices in the alley that transects the subject property.

APPLICANTS ARE ADVISED THAT THIS DECISION BECOMES FINAL TWELVE DAYS FROM THE DATE OF MAILING THIS DECISION, I.E., (MAY 10, 2009) UNLESS WRITTEN APPEAL AND THE ASSOCIATED FEE IS RECEIVED BY THE CITY OF KLAMATH FALLS PLANNING DIVISION.

Dated this 28th day of April 2009



Joe Slaughter
Associate Planner