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## BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF CONDITIONAL )  
 USE PERMIT 59-09 FOR JERRY & )  
 VICKI IVERSON TO ESTABLISH A )  
 SINGLE FAMILY RESIDENCE ON )  
 PROPERTY ZONED (R-2) RURAL )  
 RESIDENTIAL AND WITHIN A HIGH- )  
 DENSITY DEER WINTER RANGE )  
 IDENTIFIED AS: )  
 R-3910-010BC-00602-000 )

TYPE II  
 ADMINISTRATIVE  
FINAL ORDER

### 1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to construct dwelling on a 2.12-acre parcel within a High Density Deer Winter Range Overlay. The Acting Planning Director reviewed the request December 16, 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 Bill Adams. Kristinae Toomians prepared the Planning Department Staff Report.

### 3. LEGAL DESCRIPTION:

The subject property described as Parcel 1 of Land Partition Plat 04-07. The property is located east of Chokecherry Ct. and north of Mallory Dr. in Pinegrove Highlands.

### 4. RELEVANT FACTS:

The applicant requests to place single-family dwelling on a 2.12-acre property zoned Rural Residential (R-2). The property is located in a High Density Deer Winter Range Overlay. No additional Significant Resources are designated on the parcel.

The property is within a Medium Wild Fire Hazard Rating Area, and is located in the Klamath Falls Fire District #1. The parcel was lawfully created by Land Partition Plat 04-07 subdivision. Legal access is proposed off of Ivy Lane.

Agency notices were sent out on November 25, 2009. Public Works & the Building Division sent comments. Public Works requests that the proposed improvements not interfere with existing easements established by Land Partition Plat 04-07. The Building Division has no issues or concerns with the applicants' proposal. No letters of remonstrance were received from potentially affected property owners. On November 30, 2009, Staff received one letter in support of the applicant's proposal from neighbor, Roger Vercruysse (see attached exhibit).

## **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 site is in a Goal 5 Significant Resource Overlay for High 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 locations of the dwelling and shed on the applicant's site plan are in compliance with the required Significant Resource Overlay siting standards in Article 57.070(C)(2)(A). The site plan demonstrates that the proposed dwelling will be located no more than 150 feet from a side property boundary, and no more than 100 feet from Ivy Lane. The site plan submitted with the permit application indicates this criterion can be met (see Exhibit 20).
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. In order to comply with Article 57.070 development standards, the property owner shall control free roaming dogs and limit the use of their ATV's in the months between November and April. This condition is met because the applicant recorded a Restrictive Covenant for the Big Game Winter Range on October 19, 2009 (see Exhibit 19).
3. Since the property is located within a Medium Wildfire Hazard zone, the

standards of Article 69 regarding wild land fire hazard mitigation practices for new dwellings must be met. This criterion can be met through a condition requiring the applicant to record a restrictive covenant to the deed of the subject, and provide proof of recordation.

4. 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. The applicant provided a septic evaluation report from On-Site Sanitation Division (see Exhibit 18).

**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.

**5. ORDER:**

Therefore, upon review of the information and exhibits, it is ordered the request of Randy Cook and Carla Kennedy for approval of Conditional Use Permit 59-09 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.

**Conditions**

1. Prior to site development, the applicant shall obtain final clearances from Klamath County Planning, Onsite, Watermaster, and Building Departments.
2. Prior to any site development, applicant must obtain an access permit from Klamath County Public Works Department.
3. 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. The applicant shall supply the Planning Department proof of recordation.
4. Prior to issuance of site development permits, the applicant shall record this final order to the deed of the subject property. The applicant shall supply the Planning Department proof of recordation.

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

DATED this 16 day of DECEMBER, 2009.

Bill Adams  
Bill Adams, AICP, Acting Planning Director

Signed & Acknowledged before me this 22 day of December, 2009.

Elizabeth Nan Patterson

NOTARY PUBLIC FOR OREGON

My Commission Expires:

August 19, 2013



**Exhibits:**

Application	Exhibit 1
Preliminary Site Plan	Exhibit 2
Title Report	Exhibit 3
Completeness Letter	Exhibit 4
Affidavit of Mailing	Exhibit 5
Mailing Labels	Exhibit 6
Agency Notice	Exhibit 7
Property Owners Notice	Exhibit 8
Vicinity Map	Exhibit 9
Zoning Map	Exhibit 10
Significant Resource Overlay Map	Exhibit 11
Klamath County Fire District #1 Map	Exhibit 12
Pine Grove Highlands Special Road District Map	Exhibit 13
Site Photo	Exhibit 14
Klamath County Building Division Comments	Exhibit 15
Klamath County Public Works Comments	Exhibit 16
Letter from Roger Vercruysse	Exhibit 17
Septic Evaluation Report	Exhibit 18
Recorded Restrictive Covenant – Big Game	Exhibit 19
Recorded Easement	Exhibit 20
LP 04-07 Staff Report	Exhibit 21

### **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**