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BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF CONDITIONAL)
 USE PERMIT 11-10 FOR THOMAS)
 KIRKPATRICK TO ESTABLISH A)
 SINGLE FAMILY RESIDENCE ON)
 PROPERTY ZONED (R-2) RURAL)
 RESIDENTIAL, IDENTIFIED AS:)
 R-3408-028A0-00200-000)

TYPE II
 ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to place a manufactured dwelling on a 3.23-acre parcel within a Low-Medium Density Deer Winter Range Overlay. The Planning Director reviewed the request April 5, 2010 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, AICP. Kristinae Toomians 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 Lot 30, Block 1 of Sprague River Pines. The property is located at the west corner of Green Forest Dr. and south of Mc Lemoire Way.

4. RELEVANT FACTS:

The applicant requests to place a manufactured home on a 1.27-acre property zoned Rural Residential (R-2). The property is located in a Low to Medium Density Deer Winter Range Overlay. The property is located near Sprague River. The subject property is located within a flood plain. The applicant provided staff with a flood elevation certificate with the Base Flood Elevation at 4,261ft, and the top of the bottom floor at 4,262ft.

The property is within a High Wild Fire Hazard Rating Area. The parcel was lawfully

created via Sprague River Pines subdivision. Legal access is proposed off of Green Forest Dr.

Agency notices were sent out on March 15, 2010; and, as of the time of writing this report, no comments have been received from outside agencies. No letters of remonstrance were received from potentially affected property owners. Staff received one letter in support of the applicant's proposal from Eric Huelshoff.

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 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 proposed site plan demonstrates that the dwelling, including accessory structures, will be located more than 330 feet from an existing dwelling. The site plan submitted with the permit application indicates this criterion can be met.
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 can be met through the recordation of a restrictive covenant.
3. Since the property is located within a High Wildfire Hazard zone, the standards of Article 69 regarding wild land fire hazard mitigation practices must be met. This

criterion shall be met through a condition of approval that the applicant record a restrictive covenant attached to the deed of the subject parcel.

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.

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. The subject property is located within a flood plain. The applicant has provided staff with a flood elevation certificate, stamped by a licensed engineer, indicating that the finished floor will be well above the Base Flood Elevation.

5. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Thomas Kirkpatrick for approval of Conditional Use Permit 11-10 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 any site development, final clearances from Klamath County Planning, Onsite, Watermaster, and Building Departments shall be obtained.
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 any development permits, the applicant shall record a restrictive covenant signifying compliance with Article 57 of the Klamath County Land Development code. The applicant shall supply the Planning

Department proof of recordation.

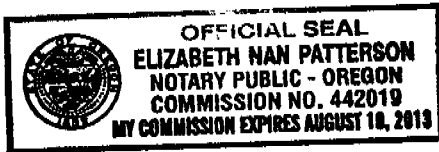
5. Prior to issuance of site development permits, this final order must be recorded to the deed of the subject property. The applicant shall supply the Planning Department proof of recordation.
6. This approval will expire two years from the date of approval unless a Building Permit has been issued.

DATED this 5 day of April, 2010.


Bill Adams, Planning Director

Signed & Acknowledged before me this 6 day of April, 2009.





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:

Application	Exhibit 1
Owner Authorization	Exhibit 2
Affidavit of Mailing	Exhibit 3
Agency Notice	Exhibit 4
Mailing List	Exhibit 5
Public Notice	Exhibit 6
Site Plan	Exhibit 7
Public Works Comments	Exhibit 8
Chiloquin-Agency Lake RFPD Comments	Exhibit 9
Letter in Support	Exhibit 10
Aerial Map	Exhibit 11
RFPD Map	Exhibit 12
Flood Plain Map	Exhibit 13
Flood Elevation Certificate	Exhibit 14
Deeds	Exhibit 15
Title Report	Exhibit 16
Completeness Letter	Exhibit 17