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BEFORE THE PLANNING DIRECTOR
KLAMATH COUNTY, OREGON

IN THE MATTER OF FMD 1-10 ROBERT)
& KELLY GALLUP TO CONSTRUCT A)
FARM MANAGEMENT DWELLING, ON)
PROPERTY ZONED EXCLUSIVE FARM)
USE - CROPS (EFU-C); FURTHER)
IDENTIFIED AS:)
R-4112-00000-00900-000 &)
R-4112-01100-00600-000)

TYPE II ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicants request to construct a Farm Management Dwelling on a 100.7-acre tract, zoned Exclusive Farm Use – Crops (EFU-C). The subject tract is located at the northwest corner of Morelock Rd and Malin Loop Rd. The Planning Director reviewed the request pursuant to: KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, and Article 54 – Exclusive Farm Use. The request was reviewed for conformance with Land Development Code Sections 54.050 and 54.060.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Bill Adams, AICP. Kristinae Toomians, Planner II, prepared the Planning Department Staff Report.

3. LEGAL DESCRIPTION:

The subject tract is described as Township 41S, Range 12E, Section 2, Tax Lot 900; and Township 41S, Range 12E, Section 11, Tax Lots 500.

4. RELEVANT FACTS:

There is a single-wide mobile home for a ranch hand on the same parcel as the proposed farm management dwelling.

Notices were sent out to agencies for review and comment. Notice was also sent to affected property owners. Staff received the following responses from agencies:

The Klamath County Public Works Department requires:

- *New access to a Public Road will require an access permit from Public Works. Access location is determined by site distance, drainage, etc.*

State Water Master

- *Well log found on subject Tract – KLAM 53738.*

Klamath County Building Division

- *The County Building Division has no issues or concerns at this time.*

No other agency comments were received.

Staff received letters of remonstrance from the applicants' neighbors, Victor & Penelope

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Terry, directly east of the subject tract. Victor Terry objects to the potential increase in dust caused by the addition of a farm management dwelling to the existing accessory farm dwelling. Penelope Terry objects to any dwellings or buildings of any kind on Tax Lot 500, which is directly adjacent to their dwelling. The applicant proposes to place the farm management dwelling on Tax Lot 900, and will not be immediately adjacent to the Terry's residence.

5. FINDINGS:

All evidence submitted shows that the approval criteria, as set out in the code, are satisfied. The Planning Director finds this application does conform to criteria set out as follows:

KCLDC 54.050(A-H)

A. Tax Lot 600 was lawfully created by deed, M46, Pg 25422.

Tax Lot 500 was lawfully created by deed, M76, Pg 11310.

Tax Lot 900 was lawfully created by deed, V125, Pg 154 (Recorded 10/19/39); with a northern portion excluded by LP 28-03.

B. The subject parcel will obtain approval for a septic system and well, in accordance with Article 75 of the KCLDC. Conditions can be placed on the applicant to provide copies of septic system approval. The Watermaster indicated a well located on the property. The subject parcel has legal access from Malin Loop Rd, a public road. The subject parcel has fire protection provided by the Malin Rural Fire Protection District.

C. The proposed dwelling will be used as a residence for a farm operator to live on the property. The farm is used for growing hay, and raising livestock, such as cows and goats. A farm hand, principally engaged in farm use, lives in the single-wide mobile home. The use is consistent with the zoning and does not go against the intent of Comprehensive Plan, Goal 4 or Article 54 of the KCLDC.

D. Per the tentative site plan, the proposed placement of the dwelling and accessory structures conform with Article 62 of the KCLDC. Water and sewer service will be required, per KCLDC Article 75. The subject tract is not within a Big Game Overlay. The subject tract is located within a Low Wildfire Hazard Rating area, so Article 69 development standards do not apply.

E. Per the site plan submitted by the applicant, the proposed dwelling is to be placed well over 1,600ft away from the Terry's dwelling. The close proximity to the terminus of Morelock limits the impacts to the overall farm use of the property.

F. The placement of the home is at the terminus of Morelock Rd. Additional housing next to a residential subdivision should have minimal impact.

G. There are no wetlands in the proposed dwelling location.

KCLDC 54.060(1-5) FARM DWELLINGS

- 1) The dwelling will be placed on a tract of approximately 100.71 acres, exceeding the minimum parcel size of 80 acres.
- 2) The subject tract is currently employed for farm use for the primary purpose of obtaining a profit by raising, harvesting and selling hay and the feeding, breeding, management and sale of livestock
- 3) There is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215, or for mixed farm/forest use pursuant to OAR 660-006-057, owned by the farm or ranch operator, or on the farm or ranch operation.
- 4) The proposed dwelling will serve as the primary farm management dwelling. A farm hand, principally engaged in farm use will also live in the single-wide mobile home on the same parcel. The farm operator and farm hand will be principally engaged in farm production on the site, to help with daily livestock grazing operations.
- 5) According to financial records, provided by the applicants, the gross income from the sales off livestock, produce, and grains, exceeds the gross annual income required by this code section.

KCLDC 54.060(C)(1-6) ACCESSORY FARM DWELLINGS

- 1) The proposed dwelling will serve as the primary farm management dwelling. A farm hand, principally engaged in farm use will also live in the single-wide mobile home on the same parcel. The farm operator and farm hand will be principally engaged in farm production on the site, to help with daily livestock grazing operations.
- 2) There is no other dwelling on lands designated for exclusive farm use owned by the farm operator, that is vacant or is currently occupied by persons not working on the subject farm or ranch, and that could reasonably be used as an accessory farm dwelling.
- 3) The single-wide mobile home will be located on the same parcel as the proposed primary farm dwelling.
- 4) According to financial records, provided by the applicants, the gross income from the sales off livestock, produce, and grains, exceeds the gross annual income required by this code section.
- 5) The lot or parcel which the accessory farm dwelling exists exceeds 20-acres in size, at approximately 60-acres.
- 6) The individual living in the single-wide mobile home is not a relative. As, stated above, staff reviewed the applicants' financial records for the Income Test.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Robert & Kelly Gallup for approval of FMD 1-10 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 Planning, Building, On-Site, and Public Works must be obtained.
- 2) Submit proof of compliance with KCLDC Article 75 to the Planning Department, by demonstrating that on-site sewer and water facilities are provided.
- 3) New access to a public road will require an access permit from Public Works. Access location is determined by site distance, drainage, etc.
- 4) Prior to issuance of site development permits, the applicant shall furnish the Planning Department with the recording fee to record this final order to the deed of the subject property. The Planning Department will, then, record the final order on behalf of the applicant.

This approval will be void two (2) years from the date of approval unless a Building Permit has been issued. The applicant may apply for one 1-year time extension with the appropriate application and required fee.

DATED this 20th day of APRIL, 2010.



Bill Adams, AICP, Planning Director

Signed & Acknowledged before me this 20th day of April, 2009.





NOTARY PUBLIC FOR OREGON

My Commission Expires:

August 19, 2013

Exhibits:

Application	Exhibit 1
Deeds for R-4112-01100-00500	Exhibit 2
Deeds for R-4112-00000-00900	Exhibit 3
Assessor's Map	Exhibit 4
Zoning Map	Exhibit 5
Rural Fire Protection District Map	Exhibit 6
Aerial Map	Exhibit 7
Soils Map	Exhibit 8
LP 28-03	Exhibit 9
Applicant's Income Tax Records	Exhibit 10
Site Plan	Exhibit 11
Mailing Affidavit	Exhibit 12
Public Notice	Exhibit 13
Agency Notice	Exhibit 14
Agency Mailing Labels	Exhibit 15
Klamath County Building Department Comments	Exhibit 16
Klamath County Public Works Comments	Exhibit 17
Watermaster Comments	Exhibit 18
Proof of Special Tax Assessment	Exhibit 19
HELC & WC Certification	Exhibit 20
Letter of Incompleteness (03/15/10)	Exhibit 21
Letter of Completeness (03/31/10)	Exhibit 22
Letter of Remonstrance – Victor Terry (04/22/10)	Exhibit 23
Letter of Remonstrance – Penelope Terry (04/22/10)	Exhibit 24