

2010-008004

Klamath County, Oregon



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BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF FMD 2-10 FOR)
CHET VOGT TO ESTABLISH A FARM)
MANAGEMENT DWELLING ON 495)
ACRES ZONED FORESTRY/RANGE)
(FR), IDENTIFIED AS: TAX ACCT.)
R-3613-00000-00200)

FMD TYPE II
ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Farm Management Dwelling on approximately 495 acres within in the Forestry-Range zone. The Planning Director reviewed the request pursuant to KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, Article 54 - Exclusive Farm Use, Article 55.2 – Forestry/Range Zone, Article 57 – Significant Resource Overlay, and Article 69 – Wildland Fire Safety Standards.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Bill Adams. Mark Gallagher, AICP, Planner III prepared the Final Order.

3. PROPERTY DESCRIPTION:

The subject property described in Farm Management Dwelling Permit file located in the Planning Department is described as Township 36, Range 13, Section 03; Tax Lot 00200.

4. RELEVANT FACTS:

The applicant intends to place a home on the subject property within the Forestry plan designation and has an implementing zone of Forestry/Range (FR). The subject parcel is approximately 495 acres. The subject parcel is currently in farm tax deferral, therefore the standards of the Exclusive Farm Use zone apply. The parcel has a Wildfire Hazard Rating of High. The property is within the Low-Medium Density Deer Winter Range. There are wetlands and a 100-year flood plain shown on the parcel.

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 the criteria set out in KCLDC Articles 54.050(A-H), 54.060(1-5), 57.070(C), 69.020, 75.010 & 75.020 as follows:

ARTICLE 54 – EXCLUSIVE FARM USE

54.050(A-H) – General Review Criteria for EFU Zone Dwellings

- A. The subject parcel was lawfully created as Parcel 2 of Land Partition LP 33-09.
- 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 and a well log to the Planning Department. The subject parcel has legal access via Ivory Pine Road and Campbell Road. The applicant has indicated in the application that the subject parcel has fire protection provided by the Bly Volunteer Fire Department. A condition has been included (#6) to provide proof of fire protection prior to approval of a Land Use Compatibility Statement from the Planning Division.
- C. The farm management dwelling will be used by the farm owner. 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 proposed site plan (Exhibit 2) and with the conditions of approval, the dwelling and its placement will conform with the standards and criteria of the KCLDC.
 - **Article 57 – Significant Resource Overlay:** A condition (#4) to record the Article 57 restrictive covenant has been included to comply with the requirements for the Low-Medium Deer Winter Range. Additional review of these requirements follows below.
 - **Article 59 – Flood Hazard Overlay:** The property is contained on FEMA FIRM Panel 975. The applicant has demonstrated that the house will be outside of the flood plain and mapped flood hazard areas of the Sprague River (Exhibit 7).
 - **Article 69 – Rural/Wildland Fire Safety Standards:** A condition (#3) to record the Fire Siting restrictive covenant has been included to comply with the requirements of this Article.
 - **Article 75 – Rural Area Water and Sewer Service:** A condition (#2) has been included to comply with the Rural Area Water and Sewer Service requirements of this Article.
- E. Given the size of the subject parcel and other tracts in the area, approval of the farm management dwelling will not alter the stability of the land use pattern in the area.
- F. The location of the proposed farm management dwelling will have no impact on nearby farm and forest lands and their operation.
- G. Wetlands are located on the property and notice of the application was sent to the Oregon Department of State Lands, with a response received indicating there was no problem with the home site (Exhibit 8).
- H. Conditions have been placed on this application and must be met before final Planning approval is issued.

54.060(B)(1-5) – Farm Dwellings, Review Criteria

1. The parcel, at 495 acres, exceeds the minimum 80 acre requirement.
2. The parcel is currently employed for farm use as defined in ORS 215.203 and will continue to be as cattle grazing will be the primary activity.
3. There is no other dwelling currently on the property.
4. The proposed dwelling will be occupied by the person principally engaged in the farm use of the land at a commercial scale.
5. The parcel on which the dwelling will be located is 495 acres and, therefore, meets the size test in subsection (a) by exceeding the 160 acre requirement for land not designated as rangeland and the 320 acre requirement for designated rangeland.

Article 57 – SIGNIFICANT RESOURCE OVERLAY (SRO)

57.070(C,2) – Specific Development Criteria and Standards

- A. Not applicable since the home site does not front a public road.
- B. Not applicable since the home site is not in an "impacted area."
- C. The farm management dwelling site does not front a public road and is not within a mapped "impacted area", therefore it is permitted pursuant to subsection 1) *"Not more than 7 other dwellings exist within a 640 acre square centered on the center of the subject parcel in mapped areas of impacted (low-medium density) deer winter range."*
- D. Not applicable since the home site is not within a critical habitat area or a migration corridor as identified by the Oregon Department of Fish and Wildlife and identified in the Comprehensive Plan.
- E. The applicable fencing provisions will be imposed in the Article 57 restrictive covenant that has been included as a condition of approval.
- F. The applicable control of free-roaming dogs will be imposed in the Article 57 restrictive covenant that has been included as a condition of approval.
- G. The applicable restriction of off-road vehicle use will be imposed in the Article 57 restrictive covenant that has been included as a condition of approval.

AGENCY RESPONSES

The KC Building Division responded (Exhibit 6) by saying that they have no issues or concerns at this time. The standard residential dwelling permit will be required.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Chet Vogt for approval of FMD 2-10 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:

Condition # 1

Prior to any site development, final clearances from Planning, Building, On-Site, and Public Works must be obtained.

Condition # 2

Submit proof of compliance with KCLDC Article 75 – Rural Area Water and Sewer Service to the Planning Department prior to receiving a Land Use Compatibility Statement for the farm dwelling, by demonstrating that on-site sewer and water facilities are provided.

Condition # 3

Prior to issuance of any development permits, the applicant must record a restrictive covenant signifying compliance with Article 69 – Rural/Wildland Fire Safety Standards of the Klamath County Land Development Code.

Condition #4

Prior to issuance of any development permits, the applicant must record a restrictive covenant signifying compliance with the fencing provisions of Article 57.070.C.2; 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.

Condition #5

Prior to application for any 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.

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 16th day of June, 2010.

Bill Adams
Bill Adams, Planning Director

Signed & Acknowledged before me this 16 day of June, 2010.



Elizabeth Nan Patterson

NOTARY PUBLIC FOR OREGON

My Commission Expires:

August 19, 2013

Exhibits:

Farm Management Dwelling Application	Exhibit 1
Farm Dwelling Site Vicinity Map	Exhibit 2
Farm Dwelling Site Plan	Exhibit 3
Property Owner Notice	Exhibit 4
Agency Notice	Exhibit 5
Response from KC Building Division	Exhibit 6
Farm Dwelling Site Plan with Flood Plain	Exhibit 7
Response Notice from Department of State Lands	Exhibit 8