



00090395201000110520040041

09/17/2010 09:36:12 AM

Fee: \$52.00

**BEFORE THE PLANNING DIRECTOR
KLAMATH COUNTY, OREGON**

IN THE MATTER OF VAR 2-08 FOR)
MICHAEL AND THERESA FARRAR)
TO VARY REQUIRED ARTICLE 57)
HOME SITING STANDARDS, AND)
FURTHER IDENTIFIED AS:)
R-3809-00000-01501

TYPE II
ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests to vary the required home siting standards set forth in Article 57 of the Klamath County Land Development Code for properties located within a Low-Medium Density Deer Winter Range. Applicant submittals represent that the topography of the subject property creates a natural water drainage swale which would affect the ability of the property owner to safely construct the home within the requirements. The Planning Director reviewed the request July 23, 2008 pursuant to Ordinance. The request was reviewed for conformance with Land Development Code Articles 43, 57, and 69.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Leslie C. Wilson. Shanna L. Done, Planner, prepared the Planning Department Staff Report.

3. LEGAL DESCRIPTION:

The subject property is legally described as Parcel 1 of Land Partition 41-96, on file at the Planning Department, otherwise known as R-3809-00000-01501.

4. RELEVANT FACTS:

The property is within the Forestry plan designation and has an implementing zone of Forestry Range (FR). Contour mapping of the property indicated that the elevation ranged from the base of the property at 4300 feet to approximately 5120 feet towards the rear of the property. This substantiates the applicant's submittals regarding the slope causing potential drainage swale and water accumulation near the front 100 from the property line. The parcel is within a Medium to High Wildfire Hazard Area.

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 conforms to the criteria set out in KCLDC Article 43 and the Klamath County Comprehensive Plan as follows:

- A. The literal enforcement of the Article 57 home siting standards would result in an unnecessary hardship on the owner due to the topography of the parcel and potential structural concerns to a building that is placed within a water swale.
- B. The condition causing the difficulty was not created by the applicant but is rather a natural condition of the topography.
- C. The granting of this variance will not be detrimental to the use and enjoyment of the adjacent property owners and will not grant uses not already authorized by the underlying zone of the subject parcel.
- D. The granting of the variance will not be contrary to the intent of the Klamath County Land Development Code Article 57 since the approved home site location will still provide adequate deer wintering range on the remainder of the 85 acre parcel. No adverse comments have been received by the Oregon Department of Fish and Wildlife.
- E. The subject property is within a Medium – High Fire Hazard zone which will require KCLDC Article 69 compliance. Comments have been received by Klamath County Fire District #1 regarding driveway development standards to accommodate fire suppression apparatus.
- F. Comments have been received by Klamath County Public Works requiring the applicant to obtain an access permit off Old Fort Road for the driveway, taking into consideration vision clearance requirements.

6. ORDER:

Therefore, upon review of the information and exhibits listed, it is ordered the request of Farrar for approval of VAR 2-08 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, on-site sanitation, building, Klamath County Fire District #1 and road access must be obtained from Public Works.

Condition # 2

Prior to application for site development permits, the applicant must provide a recorded deed covenant, to the Planning Department, that will run with the land for the control of free-roaming dogs and off-road vehicle use.

Condition #3:

The applicant may only fence up to 1 acre of the parcel around the home and any accessory buildings to be used for yard area and any other fencing at a later date must comply with 57.070(C) (2) (d) (a) 1-3 as referenced above in this report.

Condition #4:

Prior to issuance of any development permits, the applicant must record a restrictive covenant signifying compliance with Article 69 of the Klamath County Land Development code.

DATED this 23 day of JULY, 2008 AND WILL EXPIRE ONE YEAR HEREAFTER UNLESS RECORDED OR AN EXTENSION OF TIME IS APPROVED.


Bill Adams, Planning Director

Signed & Acknowledged before me this 15 day of September, 2010.


NOTARY PUBLIC FOR OREGON

My Commission Expires:

August 19, 2013



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 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**