

ATTACHMENT D – STAFF REPORT

File Number: 921-18-000008-PLNG

Original File Number: PLANCU-14-09-0003/PLAAPL-15-07-0001

Applicant/Owner: Joe Garofoli

Request: Extension of Time request to replace a nonconforming single family dwelling and two detached accessory building burned in the 2013 Government Flats Complex wildfire

Decision: **Approval**, with Conditions

Decision Date: March 1, 2018

Appeal Deadline: March 13, 2018

Location: The subject parcel is located on an access road, approximately 220 feet south of Obrist Road, approximately 3.1 miles west of Dutch Flat Road, approximately 10 miles southwest of The Dalles, Oregon; more specifically described as:

<u>Existing Tax Lot</u>	<u>Acct#</u>	<u>Acres</u>
1S 12E 18 402	16341	13.71

Zoning: A-1 (160), Exclusive Farm Use Zone, Wasco County.

Environmental Protection District: The property is also located in the EPD-8, Sensitive Wildlife Habitat Overlay Zone (Big Game Winter Range).

Past Actions: PLANCU-14-09-0003/PLAAPL-15-07-0001

Procedure Type: Administrative Action

Prepared By: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

Chapter 2 – Development Approval Procedures

Section 2.125, Time Limits for Permits and Extensions of Time

I. BACKGROUND

- A. Legal Parcel:** The subject property is identified as Parcel 2 of Minor Partition 79-110-WAA3, recorded with the Wasco County Clerk's Office on February 13, 1979. This property meets the definition of a Legal Parcel pursuant to Section 1.090 of the WCLUDO because it is a parcel in a duly recorded partition.
- B. Site Description:** The subject parcel contains steep slopes. The northern 40% (+/-) of the parcel contains north-facing slopes averaging 33%. The southern 60% (+/-) of the parcel contains east-facing slopes averaging 25%. There is a small draw near the center of the property where the slopes change direction. The property is approximately 2,520 feet above sea level (ASL) at its highest point, and is approximately 2,280 feet ASL at its lowest point. The northern third of the property contains scattered tree cover, while the remainder is heavily wooded with trees. Open areas contain natural grassland.
- C. Surrounding Land Use:** Properties to the east, south, and west contain similar slopes as the subject parcel (25-33% north, east, and southeast-facing). Slopes on properties north of Obrist Road are generally less than 5%, east-facing. Threemile Creek flows through property to the northeast, and the North Fork of Fivemile Creek flows through properties to the south and southeast. With the exception of property to the east which, according to the Assessor's Office, contains a single-family dwelling, all adjacent properties are vacant. Scattered trees exist throughout the area with draws and areas along creeks being heavily vegetated with trees.

III. FINDINGS:

Wasco County Land Use & Development Ordinance

Chapter 2 – Development Approval Procedures

Section 2.125, Time Limits for Permits and Extensions of Time

- A. Time Limits for Permits: A permit will become invalid without special action if:*
- 1. Development has not commenced within two (2) years of the date of approval;*
 - 2. The use approved is discontinued for any reason for one (1) continuous year or more.*

FINDING: An appeal of staff's decision to deny replacement of a nonconforming use, a single family dwelling, was held before the Wasco County Board of Commissioners and notification of this hearing was provided to the public, agencies, and affected property owners on April 6, 2016. A 12 day appeal period was provided and it ended at 4 p.m. on April 18, 2016. Development is required to begin no later than April 19, 2018. The owner states that he is unable to begin construction by this date and has requested an extension of time. Staff finds that the request complies with Criterion A.

- B. Extension of Time Request: If an extension of time is required, the holder of the approved permit must file an application which will be processed as an administrative action. A one-time extension may be granted for a maximum of two (2) years. Extensions shall be granted only upon findings that:*

FINDING: The property owner has submitted a request for an extension of time. A **condition** of approval is included in the Notice of Decision advising the owner that a one-time extension is granted for a maximum of two years. The new permit expiration date is April 18, 2020. No additional extensions of time will be approved. With the proposed condition of approval staff finds that the request complies with Criterion B.

- 1. Request for an extension of time has been made prior to expiration of the approved permit.*

FINDING: The expiration of the original decision is 4 p.m., April 18, 2018. The owner submitted a request for an extension of time on February 15, 2018, prior to the expiration of the land use approval. Staff finds that the request complies with Criterion 1.

- 2. There has been no change in circumstances or the law likely to necessitate significant modification of the development approval or conditions of approval.*

FINDING: No relevant changes to Oregon State law or Wasco County's Land Use & Development Ordinance have occurred since the approval of the Nonconforming Use approval therefore no changes to the proposed conditions are required, and the original condition of approval continues to apply. The original **condition** of approval is included in the Notice of Decision. Staff finds that the request complies with Criterion 2.

- 3. The applicant has provided reasons that prevented the applicant from beginning or continuing development within the approval period.*

FINDING: The request for an extension of time states that the owner had medical problems that resulted in a 9-month recovery time. The application further states that prior to his illness the owner had an out of state family emergency that required him to be out of the area for three months. The owner had no control over the family emergency and personal health issues therefore staff finds that the request complies with Criterion 3.