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Vol. ^m 77 Page 21706

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

In the Matter of Request for)
Variance 77-33 for) Klamath County Planning
Allen McQuire, Applicant) Findings of Fact and Order

A hearings was held in this matter at Klamath Falls, Oregon on October 19, 1977, pursuant to notice given in conformity with Ordinance No. 35, Klamath County, before Klamath County Hearings Officer, Del Parks. The applicant was present accompanied by Judy Carlihand, the Child Day Care Center Coordinator. The Klamath County Planning Department was represented by Wayne Sorensen and Carl Shuck. The Hearings Reporter was Isabel Rodriguez.

In addition, the Hearings Officer conducted an on-site inspection of the site of the proposed Variance. Evidence was presented on behalf of the applicant at the hearing indicating generally that the proposal was to build a church which facility would house approximately five to ten families for religious purposes on Sunday and their use as a Day Care Center which would house between 50 to 60 youngsters on each weekday. The traffic to be generated would be between five and ten cars for church related activities on Sunday and approximately 50 cars for child care activities on each weekday.

Two adjoining property owners testified that they opposed such a facility because of the increased traffic and the population within the area, and also the fact that the children in the center would be using a park, and because generally they did not want a change in the condition of their neighborhood.

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1 The following Exhibits were offered, received and made a
2 part of the record:

3 Klamath County Exhibit A, the Staff Report

4 Klamath County Exhibit B, photos of the subject property

5 Klamath County Exhibit C, a Klamath County Assessor's map
6 of the subject property

7 Klamath County Exhibit D, a Klamath County Zoning map of
8 the subject property

9 Klamath County Exhibit E, Mailing Notices

10 The hearing was then closed and based upon the evidence
11 submitted at the hearing, the Hearings Officer made the following
12 findings of fact:

13 FINDINGS OF FACT:

14 1. The subject property is Zoned SP-13.

15 2. The applicant was apparently given the information that
16 the operation of a day-care center was an educational function of
17 a church and an allowed use in an SP-13 Zone.

18 3. The Zoning Ordinance of Klamath County as constructed
19 provides a number of uses that can be made in each specific zone.
20 The Ordinance is silent as to the construction to be given it when
21 a single piece of property is to be used for dual purposes when
22 such intended uses are not permissible in the same zone.

23 4. The Hearings Officer holds that where a dual use is
24 anticipated of a single piece of property, that the use that will
25 engage 50 percent or more of the total time during which the
26 property is to be used shall be the controlling use of the property
27 and the property, therefore, must have zoning under which the con-
28 trolling use is permissible.

By *[Signature]* Hearings Officer



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Klamath County - Planning Department

COURTHOUSE — 503-882-2501, Ext. 285 — KLAMATH FALLS, OREGON 97601

IN THE MATTER OF
MAILING NOTICES FOR
Allen McQuill

AFFIDAVIT OF MAILING

STATE OF OREGON
County of Klamath

I, *Isabel Rodriguez*, being first duly sworn, depose
and say that I am an employee of the Klamath County Planning
Department, and that on the *7th* of *November*, 1977 I did deposit in
the U.S. postal system 5 copies of said MAILING NOTICE,
a copy of same being attached hereto, in a sealed envelope addressed
to those individuals on the mailing list attached hereto.

Isabel Rodriguez

SUBSCRIBED and sworn to before me this *7th* day of
November 19 *77*.

Peter M. White

NOTARY PUBLIC FOR OREGON

My commission expires

8-3-80

WE ARE AN EQUAL OPPORTUNITY EMPLOYER

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Orders for Rev. Allen McGuire for Variance 77-33 were sent to the following:

Rev. Allen R. McGuire
2839 Crest Street
Klamath Falls, OR 97601

Board Of Commissioners
Courthouse Annex
Klamath Falls, OR 97601

Assessor's Office
Courthouse Annex
Klamath Falls, OR 97601

Clerk's Office
Courthouse Annex
Klamath Falls, OR 97601

Herald and News Publications
1301 Esplanade
Klamath Falls, OR 97601

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at _____ of _____

this 10th day of November A. D. 1977 at 9:13 clock A.M., and

duly recorded in Vol. M77, of Deeds on Page 21706

Wm D. MILNE, County Clerk

By Bernetha J. Fetsch

No Fee