

18440

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

Ms2 Page 17891

In the Matter of a
REQUEST FOR A
CONDITIONAL USE PERMIT
for
KLAMATH INDIVIDUALIZED
DEVELOPMENT (KID) CENTER.

NO. 49-82

FINDINGS OF FACT, DECISION
AND ORDER

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on December 2, 1982, at 1:30 p.m. in the Commissioner's Hearing Room of the Klamath County Courthouse. This hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The applicant was present at the hearing and presented evidence and testimony through its representative, JUDY CARNAHAN, and additionally, JOHN MONFORE appeared on behalf of Weyerhaeuser Timber Company, the present land owner. The Klamath County Planning Department was represented by Jonathan Chudnoff. The Hearings' reporter was Karen Alberto. One witness appeared in opposition to the proposed Conditional Use Permit.

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

Exhibits "A" through "E".

The Hearing was then closed.

The Assistant Hearings Officer, after reviewing the evidence presented, makes the following decision:

FINDINGS, DECISION AND ORDER, Page One.

1 FINDINGS OF FACT:

2 1. Weyerhaeuser Timber Company is the owner of the
3 subject property described as being located within Section 13,
4 Township 39 South, Range 8 East, described as Tax Account Number
5 38091341-3100, in Klamath County, Oregon. The parcel for which
6 the conditional use permit is sought consists of .51 acres.
7 Weyerhaeuser Timber Company is contemplating the deeding of
8 this portion of the property to the KID CENTER on the basis
9 of a warranty deed.

10 2. The current Comprehensive Plan designation is
11 Heavy Industrial/General Commercial. The land use zone is
12 Heavy Industrial(CG).

13 3. The site is served by West Klamath Water District
14 and sanitation is provided by drainfield.

15 4. The applicant is proposing that the site be used
16 for direct service care for pre-school children serving em-
17 ployees of Weyerhaeuser Timber Company, Columbia Plywood and
18 surrounding employers and the general residential area.

19 5. The Center will be administered by the KID CENTER
20 which will be licensed by the State of Oregon through Children's
21 Services Division.

22 6. The adjacent and surrounding zoning is RS to
23 the North, IH to the South. The Weyerhaeuser mill site is to
24 the South and a residential area to the North. There is a
25 tavern next door to the North.

26 7. The property's physical characteristics include

1 a dimension of 70' by 300' consisting of approximately $\frac{1}{2}$ acre
2 with an irregular shape. Vegetation consists of trees and
3 shrubbery and the topography is generally level. The general
4 drainage is through surface runoff towards the South. The
5 soil classification is 4. The timber site productivity rating
6 is VII.

7 8. Access to the property is along Third Street within
8 the West Klamath subdivision which is a paved road.

9 9. The site is to have recreation provided at the
10 facility.

11 10. Sewer is to be provided by septic tank system,
12 power is provided by Pacific Power and Light and telephone by
13 Pacific Northwest Bell. The fire district is Stewart-Lennox.

14 11. The property has a building upon it which is
15 formerly the Weyerhaeuser Company's credit union and garage.
16 The applicant will be fencing the property in order to keep
17 children out of the street and the mill area and from the
18 adjacent property upon which there is a tavern.

19 12. The one-half ($\frac{1}{2}$) acre site provides sufficient
20 room for the two existing buildings and for any parking and
21 outdoor play areas to be provided as demonstrated by the
22 applicant's plat plan as Exhibit "B".

23 13. No conflicts with the surrounding uses are seen
24 as long as necessary fencing is provided.

25 14. The site has adequate access to streets to carry
26 the traffic flow which will be generated by this use as it fronts

1 on Third Street within the West Klamath area, a paved street.

2 15. See Exhibit "BB" for an additional Finding of Fact.

3 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

4 1. Klamath County Development Code Section 44.003
5 sets forth the criteria for consideration in the application
6 for a conditional use permit:

7 A. That the use is conditionally permitted in the
8 zone in which it is proposed.

9 B. That the location, size, design and operating
10 characteristics of the proposed uses is in conformance with
11 the Klamath County Comprehensive Plan.

12 C. That the location, size, design and operating
13 characteristics of the proposed development will be compatible
14 with, and will not adversely effect, the livability or appro-
15 priate development of abutting properties in the surrounding neigh-
16 borhood. Consideration shall be given to the harmony in scale,
17 bulk, coverage and density; to the availability of civic facilities
18 and utilities; to harmful effects, if any, upon desirable neighbor-
19 hood character; to the generation of traffic and the capacity of
20 surrounding streets and to other relevant impact of the development.

21 D. That the location, design and site planning
22 of the proposed development will provide a convenient and func-
23 tional living, working, shopping, or civic environment and
24 will be as attractive as the nature of the use and its location
25 in this setting warrant.

26 2. Klamath County Code Section 44.001 sets forth

FINDINGS, DECISION AND ORDER, Page Four.

1 the general purpose of Article 44, Conditional Use Permit, as
2 follows: The purpose of the Conditional Use Permit is to provide
3 a mechanism whereby uses which may be suitable only in certain
4 locations or only if designed or operated in a particular manner
5 may be allowed within the basic zone designations.

6 3. ORS 197.175 requires all zoning and related ordi-
7 nances adopted by the County be in conformance with the State-
8 wide Planning Goals.

9 4. Section 51.011(c)(16) provides for the operation
10 of community education facilities within a General Commercial
11 zone upon the basis of a conditional use permit.

12 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

13 1. The proposed use has a location, size, design and
14 operating characteristics which are in conformance with the
15 Klamath County Comprehensive Plan.

16 2. The location, size, design and operating charact-
17 eristics of the proposed development will be compatible with,
18 and will not adversely effect the livability , or the appro-
19 priate development of abutting properties and the surrounding
20 neighborhood.

21 3. The proposed use will be in harmony in scale, bulk,
22 coverage and density with the existing uses. No harmful effects
23 will be made upon the desirable neighborhood character. No
24 additional generation of traffic beyond the capacity of
25 the surrounding streets will be created.

26 4. The location, design and site planning of the

1 proposed development will provide for a convenient and functional
2 living, working, shopping, and civic environment and will be
3 as attractive as the nature of the use and its location in
4 this setting warrant.

5 5. See Findings 1-14 under the Findings of Fact
6 section above.

7 6. The following conditions shall be imposed upon
8 this Conditional Use Permit as they are found to be in the
9 interests of the public health, safety and welfare:

10 A. That the applicant follow the plan which they
11 have proposed and which they have testified about in regards to
12 the fencing of the property and in regards to vehicle access
13 and parking in regards to the separation of the playground
14 facilities from the portion of the property to which vehicles
15 have access.

16 B. Additionally, the applicant shall, to the most
17 reasonable extent necessary, cooperate with the adjoining prop-
18 erty owner who has the Tupper's Tavern in order to prevent con-
19 flict between the use of the applicant's property and the
20 adjoining property owner's use of their property.

21 STATE-WIDE PLANNING GOALS AND FINDINGS:

22 The granting of this Conditional Use Permit is con-
23 sistent with the goals of L.C.D.C. See Findings and Conclusions
24 and Exhibit "AA" attached hereto.

25 CONCLUSION OF LAW AND DECISION:

26 1. The request for a Conditional Use Permit on the
FINDINGS, DECISION AND ORDER, Page Six.

1 subject property meets all the applicable Klamath County Develop-
2 ment Code criteria and policies governing such.

3 2. The request for a Conditional Use Permit is
4 consistent with, and complies with, all the applicable State-
5 wide Planning Goals and statutes.

6 3. Therefore, it is hereby ordered that the request
7 by the applicant for a Conditional Use Permit on the subject
8 property described as within Section 13, Township 39 South,
9 Range 8 East, and Tax Account Number 38091341-3100, in Klamath
10 County, Oregon, is hereby granted provided that the applicant
11 follows the conditions as set forth herein.

12 DATED this 10 day of December, 1982.

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15 JAMES R. UERLINGS
16 Assistant Hearings Officer
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COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

17898

GOAL NO. 1 - Citizen Involvement

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

The county shall provide for continued citizen involvement opportunities.

State Goal Issues:

Notice of the hearing was sent to property owners within 250' of the proposed partition, to appropriate agencies, and was published in the Herald and News Newspaper and posted as required by law. For the minor partition public input during hearings on the Comprehensive Plan favored the disposition of minor partitions by a ministerial act of the Planning Director.

GOAL NO. 2 - Land Use Planning

- ☒ Complies ☐ Does not comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

Existing land uses shall be preserved from redevelopment and conflicting nearby land uses except as otherwise required by policies of the plan. The partition will not effect any change in use of the larger parcel for the Weyerhaeuser plant site. The old credit union building on the smaller parcel will be used for a day care center. No conflicts are anticipated. A Conditional Use Permit for the day care center must be obtained prior to the granting of the partition. Conflicts in use will be addressed at the CUP hearing.

State Goal Issues:

Applicants must also obtain a lot depth to width ratio variance for the smaller lot. No lot depth can be greater than $2\frac{1}{2}$ times the average width. The depth to width ratio is exceeded by approximately 107'.

Variances are subject to the review criteria of section 43.003 of the Land Development Code.

Parcel #2 was originally a platted lot in the West Klamath Subdivision. This determined its present shape. The lot was later vacated; however, its long narrow shape had been predetermined by its formerly platted boundaries. This circumstance applies to this property in particular and not generally.

(cont.)

GOAL NO. 2

State Goal Issues cont.:

17899

to other properties in this area. The granting of the variance will not be materially detrimental to the public health, safety, or welfare and will not impair an adequate supply of light and air to adjacent property.

The parcels to be partitioned conform to the general area. The .51 acre parcel was originally a lot in the West Klamath subdivision. The remaining parcel is the Weyerhaeuser Plant site. No change in use is anticipated on the parcel housing the plant site. The former credit union building will be used as a day care center if the CUP is approved. The purpose of the partition is to enable Weyerhaeuser to donate their old credit union building to the KID center.

GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

17900

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

Policy 4: The county will encourage the protection and management of fish and wildlife areas and habitats in mutual cooperation with the Oregon Wildlife Commission's fish and wildlife management plans.

The Department of Fish and Wildlife has been notified:

State Goal Issues:

There are no inventoried open spaces, scenic and historic areas or natural resources which would be affected by the proposed partition and variance. No additional impacts are anticipated.

GOAL NO. 6 - Air Water and Land Resource Quality

☒ Complies ☐ Does not Comply

☐ Complies with Conditions

☐ Not applicable

Relevant Policies:

Urban and rural residential use shall be designated only when approved sewage disposal alternatives have been identified.

All established development is currently served by septic systems. Water is provided by a water district.

State Goal Issues:

Current facilities are presumed to meet the needs of the day care center and will continue to adequately serve the mill site. No impacts due to the partition and variance will affect air, water, or land resources quality.

GOAL NO. 3 - Agricultural Lands

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

Urban and rural development shall be directed onto SCS Class V-VIII soils except when areas are small and surrounded by existing or potential development.

Both parcels are currently physically committed to nonfarm uses although crops are grown on a partition of the larger parcel. Areas are developed and surrounded by potential development.

State Goal Issues:

Area is situated on Class III soils. Current development on both parcels, surrounding development, and the small parcel size of the .51 acre parcel preclude the use of much of the property for agriculture. A portion of the property is currently in agricultural use.

GOAL NO. 4 - Forest Lands

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

This area has no Timber Site Productivity Rating and no measurable potential for timber growth.

GOAL NO. 7 - Natural Disaster and Hazards Area

- ☒ Complies ☐ Does Not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

The county shall consider site constraints in evaluating land use in fire hazard areas.

New development shall be kept off of slopes greater than 25% unless engineering plans are approved by the Dept. of Public Works.

No new development is planned.

State Goal Issues:

A portion of the larger parcel lies in a flood hazard area per HUD flood hazard area maps. No additional development is anticipated due to the partition. There are no other natural disaster or hazard areas in the vicinity of the proposed partition.

GOAL NO. 8 - Recreation Needs

- ☒ Complies ☐ Does Not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

It is assumed that regional park needs are satisfied by nearby national forest and park lands.

GOAL NO. 9 - County Economy

17903

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

Weyerhaeuser Company is donating their old credit union building and lot to the KID day care center. The economy may be indirectly stimulated by the service provided by the day-care center.

GOAL NO. 10 - Housing

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

The proposed partition will have no affect on housing.

GOAL NO. 11 - Public Facilities and Services

17904

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The area is served by a water district, a fire district, and a school district. Sanitary facilities are provided by septic tanks. Electrical and telephone facilities serve the area.

GOAL NO. 12 - Transportation

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

Parcel 2 has access of of Weyerhaeuser Road; Parcel 1 has access off of Weyerhaeuser Road and Highway 66.

GOAL NO. 13 - Energy Conservation

- ☒ Complies ☐ Does Not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The facilities are located close to the Klamath Falls urban area providing a convenient location for employees and for the child care service.

GOAL NO. 14 - Urbanization

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

During partitioning of urban land, the county shall encourage parcels of adequate dimension to maximize the utility of land resources and enable the logical and efficient extension of services. The .51 acre parcel lies within the UGB.

State Goal Issues:

The larger parcel containing the plant site is located outside of the UGB for Klamath Falls.

FINDINGS OF FACT (cont.):

15. The property is generally located between the Klamath River and Highway 66 approximately three (3) miles west of Klamath Falls. The area is the Weyerhaeuser mill site and this portion of the mill site used to be the old credit union building lying South of the West Klamath subdivision and adjacent to a Weyerhaeuser security gate, and the legal description is NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 13, Township 39, Range 8, Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 15 day of Dec A.D. 19 82 at 3:59 o'clock p.m., and
 duly recorded in Vol. M82, of Deeds on Dec. 17 1981

No Fee

EVILYN B. EHN, County Clerk

aCOMMISSIONERS

By Jay Mc