

31457

Vol. 1183 Page 21109

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY OREGON

In the Matter of a
REQUEST FOR A CONDITIONAL
USE PERMIT

) NO. 29-83

) FINDINGS OF FACT DECISION
) AND ORDER

for
CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS/DEE RAY JENSEN

THIS MATTER originally came on for a hearing on
November 17, 1983, before Assistant Hearings Officer, JAMES
R. UERLINGS. The matter was continued until December 1, 1983,
at 1:30 p.m. in the Klamath County Commissioners' Hearing
Room. The purpose of the continuance was in order to allow
the applicant to obtain, in writing, verification of their
authority to proceed on behalf of the owners with this
Conditional Use Permit. Those documents have now been received
and no party objected to the authority of the applicant
to proceed at the December 1, 1983, hearing.

The applicant was represented at the hearing by
Mr. Halvorsen. The Planning Department was represented
by John Chudnoff.

The following exhibits were offered, marked and
received into evidence and made a part of the record:
Exhibits "A" through "T".

The Assistant Hearings Officer, after reviewing the
evidence makes the following findings of fact and decision.
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83 DEC 13 AM 9 05

1 FINDINGS OF FACT:

2 1) The subject property is currently owned by
3 James O. Allen, Kathleen M. Allen, George G. French and
4 Madeline M. French. Notarized authorizations to act as
5 agents have been filed by the above mentioned parties,
6 authorizing Robert J. Halvorsen to act as their agent
7 for a conditional use permit for the establishment of
8 a religious assembly facility in a rural residential zone.

9 2) The applicant, again acting through Agent
10 Robert J. Halvorsen, is the Church of Jesus Christ of
11 Latter Day Saints. They desire to establish a permanent
12 religious assembly facility on the northeast corner of
13 Clover Creek Road and McLaughlin Lane in Keno, Oregon, with
14 the legal description as Lot 8, Block 2, Forest Green, Klamath
15 County, Oregon.

16 3) The property currently has a plan designation of
17 rural residential, a zone designation of rural residential,
18 with adjacent or surrounding zoning being rural residential.

19 4) Persons testifying at the hearing in opposition
20 to the conditional use permit indicated that they and their
21 neighbors established their residences in the area over a
22 period of several years due to its forest-like setting and
23 rural lifestyle. They indicated that the neighborhood and
24 the general area of the proposed site is a very quiet and
25 peaceful area and the children of the families in the area
26 enjoy playing on the wooded land.

1 5) The Assistant Hearings Officer viewed the property
2 on November 22, 1983, in the company of Jonathan Chudnoff of
3 the Planning Department. The property lies in a very rural set-
4 ting surrounded by houses which are on lots which contain
5 varying amounts of timber growth. Houses are generally secluded
6 from one another by the timber growth which has been left stand-
7 ing to a large extent on most of the properties. There appears
8 to be little traffic in the area of McLaughlin Lane. McLaughlin
9 Lane is a gravel road which is unimproved and which is maintained
10 by assessments made against the area residents' property.
11 (The evidence at the hearing indicated that the applicant's
12 church would be exempt from the provisions of the assessment
13 for the maintenance of McLaughlin Lane.)

14 6) The property also appears to be very uneven and
15 generally seems to slope back to a depression area in the
16 northern corner of the property.

17 7) The applicant admitted that there may be some
18 drainage problems on the property but indicated that the church's
19 architect felt that the drainage could be taken care of. No
20 specific plan or information or engineering study was provided
21 to indicate how the drainage problem would be taken care of.

22 8) The dimensions of the property are irregular
23 and consist of 2.2 acres, basically triangular in shape. Vege-
24 tation consists of pine trees consisting mainly of medium growth
25 trees. The topography has a general slope down to the East
26 and North of the property. General drainage consists of surface

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1 runoff to the low area near the northeast corner. Soil class
2 is VII, and the timber productivity rating is none. The unique
3 physical characteristics of the surrounding land consists of a
4 heavily rural residential area, one of the few such areas
5 within easy driving distance of Klamath Falls.

6 9) Access to the property is over Clover Creek Road,
7 a paved County road, and McLaughlin Lane, a gravel public road.

8 10) Sewer facilities to the property is provided
9 by septic system and water is furnished by well. Utility
10 districts serving the property consist of Pacific Northwest
11 Bell and Pacific Power and Light. The fire district serving
12 the property is the Keno Rural Fire Protection District.

13 11) No specific input was received from the Keno
14 Area Committee.

15 12) The church's congregation in the Keno area uses
16 rented quarters and has purchased this site for a permanent
17 facility. Current membership in the Keno area consists of
18 30-40 families with an expected annual growth rate of three to
19 four percent (3-4%). The building is planned for an initial
20 capacity of 130-140 persons but the applicant intends the build-
21 ing to be capable of expansion. The building will have 2200
22 square feet and will include a main chapel as well as classrooms
23 and a social hall.

24 13) The surrounding rural residential area consists
25 of lots ranging in size from $1\frac{1}{2}$ to 3 acres and developed with
26 houses and mobile homes. There is a moderate to dense cover of

1 pines on the property and adjacent lots. Several of the opponents
2 testifying at the hearing indicated that there is approximately
3 25 acres of property in the Keno area which is currently zoned
4 in such a manner as to allow construction of this church without
5 the necessity of a conditional use permit. The applicant,
6 however, indicated that the senior officials of the church have
7 very particular standards in regards to the establishment
8 of a church site and that this site was the only one which they
9 approved of those inspected in the Keno area.

10 14) The applicant indicated that currently
11 there would only be approximately 13 to 15 cars using the
12 facility on Sundays and that their use of the facility
13 during other than Sunday would probably consist of one (1)
14 day out of the week in which they have a dinner meeting.

15 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

16 1) Klamath County Development Code Section 44.003 sets
17 forth the criteria for consideration in the application for
18 a conditional use permit:

19 A. That the use is conditionally permitted in
20 the zone in which it is proposed.

21 B. That the location, size, design and operating
22 characteristics of the proposed uses is in conformance with
23 the Klamath County Comprehensive Plan.

24 C. That the location, size, design and operating
25 characteristics of the proposed development will be compatible
26 with, and will not adversely effect, the livability or

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1 appropriate development of abutting properties in the surrounding
2 neighborhood. Consideration shall be given to the harmony
3 in scale, bulk, coverage and density; to the availability of
4 civic facilities and utilities; to harmful effects, if any,
5 upon desirable neighborhood character; to the generation of
6 traffic and the capacity of surrounding streets and to other
7 relevant impact of the development.
8

9 D. That the location, design and site planning
10 of the proposed development will provide a convenient and
11 functional living, working, shopping or civic environment
12 and will be as attractive as the nature of the use and its
13 location in this setting warrant.

14 2) Klamath County Code Section 44.001 sets forth
15 the general purpose of Article 44, Conditional Use Permit,
16 as follows: The purpose of the Conditional Use Permit is to
17 provide a mechanism whereby uses which may be suitable only in
18 certain locations or only if designed or operated in a
19 particular manner may be allowed within the basic zone design-
20 nation.

21 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

22 1) The proposed use, subject to several conditions
23 further imposed herein, has a location, size, current design
24 and operating characteristics that are in conformance with the
25 Klamath County Comprehensive Plan.

26 2) Subject to the conditions herein imposed, the
location, size, design and operating characteristics of the
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1 proposed development will be compatible with, and will not ad-
2 versely effect, the livability or the appropriate development
3 of the abutting properties and the surrounding neighborhood.

4 3) The proposed use will be in harmony in scale,
5 bulk, coverage and density with the existing uses. Subject
6 to the conditions imposed herein, no harmful effects will be
7 made upon the desirable neighborhood character. No additional
8 generation of traffic beyond the capacity of the Clover Creek
9 Road will be created.

10 4) The location, design and site planning of the
11 proposed development will provide for a convenient and functional
12 living environment and will be as attractive as the nature of
13 its use and its location in this setting warrant, subject to
14 the conditions imposed herein.

15 5) The application as proposed herein marginally
16 meets the criteria for a conditional use permit. However, it
17 only meets those criteria upon the imposition of certain stringent
18 conditions which must be imposed to protect the public health,
19 safety and welfare of the citizens of Klamath County and, in
20 particular, those residents on surrounding property. These con-
21 ditions must be followed in their entirety, subject to this
22 conditional use permit being revoked. Additionally, prior to
23 the applicant expanding this facility, or changing any of the
24 plan specifications of this facility, an application to amend
25 this conditional use permit must be filed.

26 The conditions imposed are as follows:

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1 1) Access to the property should be limited to one (1)
2 driveway located at the southerly proposed access point on
3 Clover Creek Road.

4 2) The applicant shall follow his plot plan designated
5 as Exhibit "M" and provide for the one access point onto
6 Clover Creek Road. The applicant, in following this plot plan,
7 shall not cut down any more trees than are necessary for
8 actual construction and fire safety of the proposed building
9 and associated driveway, parking area and water sewage systems.
10 In particular, the applicant shall endeavor to leave all trees
11 along the boundary lines of the applicant's property and the
12 adjoining properties. These trees and associated undergrowth
13 will serve as a barrier between the proposed facility and
14 surrounding houses. A vegetation and tree buffer of at least
15 twenty five (25) feet in width shall be maintained along all
16 boundary lines of the property.

17 3) The applicant shall modify his plot plan, Exhibit
18 "M", to exclude at this time the eleven (11) parking spaces
19 located at the western edge and eastern edge of the driveway
20 which circles the building, i.e., all those parking spaces
21 not adjacent to the actual proposed building site shall be
22 excluded at this time. The applicant shall leave this area,
23 with its current trees and shrubbery, as best as possible.
24 Should future parking spaces be necessary, a request to amend
25 this conditional use permit must be filed. This still leaves
26 the applicant approximately thirty four (34) parking spaces

1 which, according to the testimony of the applicant, is at least
2 double what the current usage is for Sunday services. Addition-
3 ally, the applicant shall landscape the area immediately surround-
4 ing the building in a manner appropriate to the surrounding
5 neighborhood and surrounding vegetation. (All parking for the
6 proposed development shall be on the property itself.)

7 4) The applicant shall provide a drainage plan for
8 the proposed development. The plan shall be prepared by an
9 engineer and its purpose would be to avoid added storm water
10 runoff onto adjacent lots. The plan shall be submitted to the
11 County Engineer for his approval.

12 5) Prior to the construction, the applicant shall
13 furnish the Planning Department with evidence of a positive
14 site evaluation for sewage disposal from the Klamath County
15 Health Department.

16 6) A setback of at least twenty five (25) feet
17 for any construction, i.e. buildings, roads, parking, from
18 any property line or easement shall be maintained by the
19 applicant.

20 7) No outdoor recreational activities shall be
21 conducted on the property. Additionally, the applicant
22 shall endeavor to keep noise levels from activities inside
23 and outside the building at a minimum so as not to disturb the
24 neighborhood setting of the surrounding property owners.

25 STATE-WIDE PLANNING GOALS AND CRITERIA:

26 See Exhibit "AA" attached hereto and incorporated

1 by this reference.

2 CONCLUSIONS OF LAW AND DECISION:

3 1) This request for a conditional use permit on the
4 subject property meets all applicable Klamath County Development
5 Code criteria and policies governing such.

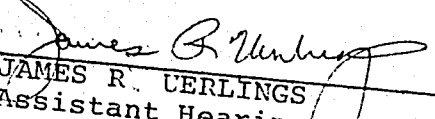
6 2) This request for a conditional use permit is
7 consistent with, and complies with, all the applicable State-
8 wide Planning Goals and review criteria.

9 3) The following conditions are deemed necessary
10 to protect the health, safety and welfare of the citizens
11 of Klamath County:

12 A. See the conditions as set forth on pages 8 and
13 9 under Klamath County Development Code Findings and Con-
14 clusions.

15 THEREFORE, it is hereby ordered that the request
16 by the applicant for a conditional use permit on the subject
17 property described herein is hereby granted, subject to the
18 conditions as set forth above.

19 DATED this 8 day of December, 1983.

20
21 
22 JAMES R. UERLINGS
23 Assistant Hearings Officer
24
25
26

COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

21119

GOAL NO. 1 - Citizen Involvement

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

Relevant Policies:

1. "The County shall provide for continued citizen involvement opportunities."

State Goal Issues:

A public hearing on this matter has been set for November 17, 1983 before the Hearings Officer. Notice has been sent to surrounding property owners; concerned public agencies and the Keno Area Committee. Notice has been published in the Herald and News.

GOAL NO. 2 - Land Use Planning

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

Article 46
Major/Minor Partition
Section 46.003 Review Criteria

Relevant Policies:

	Complies	Does not Comply	N.A.
A -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

State Goal Issues:

The property is within the Keno Rural Community, in an area zoned, subdivided and developed for residential uses consisting of houses and mobile homes. The Klamath County Land Development Code provides for certain civic uses, such as schools and churches, to be conditionally permitted in the residential zones. The Hearings Officer must determine compliance with the Conditional Use Permit criteria, Section 44.003. Some suggested conditions are attached to this report.

GOAL NO. 3 - Agricultural Lands

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

Fk1120

Relevant Policies:

State Goal Issues:

The property is within the Keno Rural Community, in an area subdivided and developed for residential use. Soils are in SCS Capability Class VII, and parcel sizes are between 1 and 3 acres, too small to be used for agriculture.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

The property is within the Keno rural community, in an area developed for residential use. Area soils have no site productivity rating for timber and are too small to be managed for commercial timber production.

GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources 21121

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

Relevant Policies:

1. "If uses are proposed that may conflict with Goal 5, the County shall determine the economic, social, environmental and energy consequences of the conflicting uses and develop programs to achieve Goal 5."

State Goal Issues:

There are no inventoried scenic, historic or natural resources on the property or in the immediate neighborhood. The dense timber growth in the area provides a scenic amenity for the neighborhood. A condition should be placed on approval to limit tree cutting, in order to reduce the scenic impact on neighboring properties.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

1. "The County shall support efforts to maintain and improve the quality of air resources."
2. "All solid waste discharge will be disposed of in accordance with the County Solid Waste Management Plan."
7. "The County shall coordinate environmental management programs with State and Federal environmental statutes, programs and policies (air, water, land, and noise)."
8. "The County shall establish grading standards to that limit runoff and erosion from residential, commercial, and industrial construction sites."
9. "Consideration shall be given to locating noise sensitive activities away from noise generators."

State Goal Issues:

1. Some fumes would be added to the area due to the increase in car traffic. The cars would operate in the area only for a short time, and the additional pollution would not be significant.
2. The property is within the solid waste collection franchise area of the Klamath Disposal Company, served by the Keno Refuse Transfer Station.
3. Any septic system installed on the property would be subject to Health Department inspection and approval.

Continued on next page.

4. Drainage on the property is mostly toward a low area near the lots' northeast corner. The applicant should submit a drainage plan designed to avoid added runoff onto neighboring lots.
5. The proposed use would add some noise, mainly from traffic. Most activities would take place indoors, and thus not affect neighboring lots. Mormon Churches do not have bells.

GOAL NO. 7 - Natural Disaster and Hazards Are

21123

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

Relevant Policies:

1. "The County shall consider site constraints in evaluating land use in fire hazard areas. Within designated areas where population or building densities may be inappropriate to the hazards present, measures will be developed to mitigate risk to life and property loss."

State Goal Issues:

The area has a high fire hazard rating. The property is within the Keno Rural Fire Protection District, whose main fire station is about 1 mile southeast on Clover Creek Road.

The building shall comply with the fire safety requirements of the Uniform Building Code for the type of occupancy proposed.

GOAL NO. 8 - Recreation Needs

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

Relevant Policies:

1. "When planning for lands and resources capable of accommodating multiple uses, the County shall encourage the provision of appropriate recreation opportunities."

State Goal Issues:

The facility will provide some recreation facilities for church members, including indoor volleyball and half-court basketball.

Page 3
GOAL NO. 9 - County Economy

21124

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

Relevant Policies:

State Goal Issues:

Construction of the church and related facilities would provide some temporary economic benefits from construction wages and the purchase of needed materials and services. The County would lose some property tax revenue since the church property would become exempt. The current year's tax is \$316.28.

GOAL NO. 10 - Housing

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

Relevant Policies:

State Goal Issues:

There are over 150 vacant residential lots within the Keno rural community. At the development rate of recent years, the withdrawal of this lot from residential use would not significantly affect the availability of housing in Keno.

GOAL NO. 11 - Public Facilities and Services

21125

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

12. "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or planned in the area."

State Goal Issues:

The property has electrical and telephone services and is within a fire protection district. On-site water and sewage disposal systems will be provided.

This level of service appears to be sufficient for the proposed use.

GOAL NO. 12 - Transportation

☐ Complies ☐ Does not Comply

☒ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The property fronts on Clover Creek Road, a paved county road, and McLaughlin Lane, a gravel public road. The roads are adequate for the anticipated additional traffic, but driveway locations shall be limited to one access on each road, at locations to be approved by the County Engineer. The additional traffic generated by the church would generally occur on Sunday mornings or weekday evenings. These hours would not conflict with normal work and school traffic and are normally low traffic hours.

GOAL NO. 13 - Energy Conservation

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

21126

Relevant Policies:

State Goal Issues:

There appear to be no effects on energy use or conservation as a result of locating the church on this property as compared with other available lots in Keno.

GOAL NO. 14 - Urbanization

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The site is within a rural community, developing with residential uses and the associated civic and commercial uses. An urban level of services is not needed or anticipated within the foreseeable future.

Return to Commissioners Journal

STATE OF OREGON: COUNTY OF KLAMATH: ss
I hereby certify that the within instrument was received and filed for record on the 12th day of December A.D., 1983 at 9:05 o'clock A M, and duly recorded in Vol M83, of Deeds on page 21109.

EVELYN BIEHN, COUNTY CLERK

Fee \$ None

by Ann Smith deputy