

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a)	C.U.P. NO. 9-84
REQUEST FOR A CONDITIONAL)	
USE PERMIT)	FINDINGS OF FACT, CONCLUSIONS
)	OF LAW AND ORDER
for)	
)	
CACTUS FLATS, INC.)	

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings' Officer, JAMES R UERLINGS, on March 15, 1984, at the Klamath County Commissimners' Hearing Room. The 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 the Planning Department was represented by Jonathan Chudnoff.

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

The Assistant Hearings Officer, after reviewing the evidence presented, makes the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT:

1) The subject property is owned by STH, Inc. The applicant is CACTUS FLATS, INC. The application reflects consent on the part of the president of STH, Inc., the deed holder, for CACTUS FLATS, INC. to act on their behalf in this application.

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1 2) The subject property is located at 4650 South
2 Sixth Street, the legal description is Lots 5-10, Block 1,
3 St. Francis Park, Klamath County, Oregon.

4 3) The property has a plan designation of General
5 Commercial, a zone designation of General Commercial and
6 adjacent and surrounding zoning is General Commercial.

7 4) The property's physical characteristics
8 include dimensions of 150' x 135', consisting of 20,250
9 square feet (.46 acre), the shape is rectangular, the
10 vegetation consists of shrubs and similar landscaping, and
11 the topography is level. The general drainage is surface
12 runoff to street drains.

13 5) The property is served by Pacific Power and
14 Light, Pacific Northwest Bell, and CP National Gas and
15 the City of Klamath Falls. Fire service is provided by
16 County Fire District No. 1.

17 6) No citizen advisory group is active in this
18 area.

19 7) The property formerly was the site of Church's
20 Fried Chicken and is currently being remodeled and converted
21 into a restaurant for the applicant. The applicant desires
22 this conditional use permit in order to serve beer and wine for
23 on premises consumption. The restaurant will be of the theme
24 restaurant variety, emphasizing the historical aspects of
25 the community in its furnishings and entrees. It will,
26 to some extent, specialize in chicken and a salad bar

1 type meals with a general family restaurant atmosphere.
2 It will, however, be of the self-help service type of
3 facility with no waitresses, other than persons delivering
4 orders to the tables after the order has been placed at a
5 counter.

6 8) The applicant has met with officials of the
7 Oregon Liquor Control Commission who have indicated that
8 their documents appear to be in order to qualify for the
9 liquor license pending the notification of approval from
10 the county.

11 9) The applicant expects that the sale of the
12 beer and wine will be approximately five percent (5%)
13 of the business's gross sales. The hours of operation will
14 be from 11 a.m. to 11 p.m. seven (7) days a week.

15 10) Currently in the area Tax Lots 3700 and 9900
16 have on premises liquor sales licenses. Additionally,
17 the supermarket located at Tax Lot 1500 sells beer and wine
18 for off premises consumption.

19 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

20 1) Klamath County Development Code Section 44.003
21 sets forth the criteria for consideration in the application
22 of a conditional use permit:

23 A. That the use is conditionally permitted in
24 the zone in which it is proposed.

25 B. That the location, size, design and operating
26 characteristics of the proposed uses is in conformance with the
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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Klamath County Comprehensive Plan.

C. That the location, size, design and operating characteristics of the proposed development will be compatible with, and will not adversely effect, the livability or appropriate development of abutting properties in the surrounding neighborhood. Consideration shall be given to the harmony in scale, bulk, and utilities; to harmful effects, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets and to other relevant impact of the development.

2) Klamath County Ordinance 51.011(c)(5) allows for the requested use as a conditional use in a General Commercial zone.

KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

1) The proposed use is conditionally permitted in the zone in which it is proposed under Section 51.011(c)(5).

2) The location, size, design and operating characteristics of the proposed use is in conformance with the Klamath County Comprehensive Plan.

3) The location, size, design and operating characteristics of the proposed development will be compatible with, and will not adversely effect, the livability or the appropriate development of the abutting properties and surrounding neighborhood.

4) Consideration has been given to the harmony in scale, bulk, coverage and density; to the availability of civic

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1 facilities and utilities; to harmful effects, if any, upon the
2 neighborhood character; to the generation of traffic and the
3 capacity of the surrounding streets to handle such.

4 5) The following conditions are deemed necessary in
5 order to protect the health, safety and welfare of the citizens
6 of Klamath County:

7 A. That the applicant follow the plot plan.

8 B. That the applicant continue to always maintain
9 a license issued by the State of Oregon for the sale of beer
10 and wine and meet all State criteria for the maintenance
11 of such license. If, at any time, the applicant's license
12 to sell beer and wine is revoked or suspended by the State,
13 this conditional use permit will be automatically revoked
14 and will not be reinstated prior to a new hearing.

15 STATE-WIDE PLANNING GOALS AND CRITERIA:

16 See Exhibit "AA" attached hereto and incorporated
17 by this reference.

18 CONCLUSIONS OF LAW AND DECISION:

19 1. This request for a conditional use permit on the
20 subject property meets all the applicable Klamath County
21 Development Code criteria and policies governing such.

22 2. This request for a conditional use permit is
23 consistent with, and complies with, all the applicable
24 State-wide Planning Goals and review criteria.

25 3) The conditions as set forth above are deemed
26 necessary to protect the health, safety and welfare of the

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1 citizens of Klamath County and are made a part of this Order.

2 THEREFORE, it is hereby ordered that this request
3 for a conditional use permit on the subject property herein
4 described is hereby granted, subject to the conditions as
5 set forth above.

6 DATED this 14 day of March, 1984.

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10 JAMES R. UERLINGS

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COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

4358

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 March 15, 1984. Notice has been sent to surrounding property owners and concerned public agencies and 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 area is zoned and developed for commercial uses. The sale of alcoholic beverages in conjunction with the restaurant would not be a conflicting use for surrounding property.

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GOAL NO. 3 - Agricultural Lands

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

Relevant Policies:

State Goal Issues:

The area is urbanized and developed for commercial uses.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

The area is urbanized and developed for commercial uses.

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

4360

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

Relevant Policies:

State Goal Issues:

There are no inventoried Goal 5 resources on or adjacent to this property.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

State Goal Issues:

The sale of alcoholic beverages would not have added impacts on air, water or land resource quality.

GOAL NO. 7 - Natural Disaster and Hazards Are

4361

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

Relevant Policies:

State Goal Issues:

There are no known natural hazards affecting this vicinity.

GOAL NO. 8 - Recreation Needs

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

Relevant Policies:

State Goal Issues:

The sale of alcoholic beverages would not affect the need for or availability of recreational facilities in the area.

GOAL NO. 9 - Cour Economy

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

4362

Relevant Policies:

State Goal Issues:

Granting this permit would increase the restaurant's business by allowing it to offer a broader range of service. There will be some increase of sales for local beer and wine distributors. Overall, the economic benefits would be small.

GOAL NO. 10 - Housing

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

Relevant Policies:

State Goal Issues:

The restaurant is in a commercial area. No housing would be affected by this request.

GOAL NO. 11 - Public Facilities and Services

- ☒ 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."

4363

State Goal Issues:

The sale of alcoholic beverages would not increase the need for public utilities and services. Electrical, telephone, water, sewer and gas services are available. The property is within County Fire District No. 1. The Sheriff's office has been notified of this request and has submitted no comments.

GOAL NO. 12 - Transportation

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

Relevant Policies:

State Goal Issues:

The property fronts on 6th Street, the main arterial for suburban area traffic. The street has four traffic lanes and a central, left-turn lane.

GOAL NO. 13 - Energy Conservation

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

4364

Relevant Policies:

State Goal Issues:

The C.U.P. would not affect energy use or conservation.

GOAL NO. 14 - Urbanization

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

Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area. The proposed use is consistent with urban development.

Return: Commissioners Journal

EXHIBIT "AA", Page 7.

STATE OF OREGON: COUNTY OF KLAMATH:ss
I hereby certify that the within instrument was received and filed for
record on the 16th day of March A.D., 19 84 at 3:22 o'clock P. M.
and duly recorded in Vol M84, of Deeds on page 4352.

Fee: \$ None

EVELYN BIEHN, COUNTY CLERK

by: Pam Smith, Deputy