

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the matter of a)	NO. 21-84
)	
REQUEST FOR A)	FINDINGS OF FACT, CONCLUSIONS
CONDITIONAL USE PERMIT)	OF LAW AND ORDER
)	
for)	
)	
HAROLD BUTLER ENTERPRISES)	
#215, INC.)	

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on June 7, 1984, at the Klamath County Commissioners' Hearing Room. The hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The applicant was represented at the hearing by its' District Manager, Sue Gollahon, 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 "D".

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 Harold Butler Enterprises #215, Inc., dba Denny's Restaurant.

2) The subject property is located at 2947 S. Sixth

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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1 Street, Klamath Falls, Oregon, with a legal description of
2 Tax Lot 200, located in the SW1/4, NW1/4, Section 3,
3 Township 39, Range 9, Klamath County, Oregon.

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

7 4) The property's physical characteristics are
8 as follows: dimensions of 134.55' x 175', consisting of
9 approximately .54 acre; the property's shape is rectangular
10 and vegetation consists of planted trees and shrubs. The
11 topography is level.

12 5) Unique physical characteristics of the surrounding
13 lands are that they are a fully developed commercial district.

14 6) Access to the property is off of South Sixth
15 Street to the front and Pershing Way to the back.

16 7) The applicant is requesting this permit in order
17 to sell alcoholic beverages, consisting of beer and wine,
18 at Denny's Restaurant, located at 2947 S. Sixth Street.

19 8) The property is surrounded by commercial devel-
20 opments, including two (2) restaurants serving alcoholic
21 beverages, to-wit: Cimarron and Jefferson Inn.

22 9) The applicant presented evidence indicating that
23 there are approximately 1,000 Denny's restaurants across
24 the country, and, of those restaurants, approximately 532
25 serve alcoholic beverages. There is currently a Denny's
26 Restaurant in a similarly situated commercial area in

1 Medford, Oregon, that serves beer and wine, as well as
2 several in the Portland area.

3 10) The applicant desires the permit in order to
4 enhance the beverage variety for its' adult customers.

5 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

6 1) Klamath County Development Code Section 44.003
7 sets forth the criteria for consideration in the application
8 of a conditional use permit:

9 A. That the use is conditionally permitted
10 in the zone in which it is proposed.

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

14 C. That the location, size, design and operating
15 characteristics of the proposed development will be com-
16 patible with, and will not adversely effect, the livability,
17 or appropriate development of abutting properties in the
18 surrounding neighborhood. Consideration shall be given to
19 the harmony in scale, bulk, and utilities; to harmful
20 effects, if any, upon desirable neighborhood character; to
21 the generation of traffic and the capacity of surrounding
22 streets and to other relevant impact of the development.

23 2) Klamath County Ordinance 51.001(c) allows for
24 the requested use as a conditional use in a General Commercial
25 zone.

26 * * * * *

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
-3-

KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

1) The proposed use is conditionally permitted in the zone in which it is proposed under Section 51.001 (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 facilities and utilities; to harmful effects, if any, upon the neighborhood character; to the generation of traffic and the capacity of the surrounding streets to handle such.

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

A. That the applicant follow the plot plan.

B. That the applicant continue to always maintain a license issued by the State of Oregon for the sale of beer and wine and meet all State criteria for the maintenance of such license. If, at any time, the applicant's license to sell beer and wine is revoked or suspended by the State, this conditional use permit will be automatically revoked

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1 and will not be reinstated prior to a new hearing.

2 STATE-WIDE PLANNING GOALS AND CRITERIA:

3 See Exhibit "AA" attached hereto and incorporated
4 by this reference.

5 CONCLUSIONS OF LAW AND DECISION:

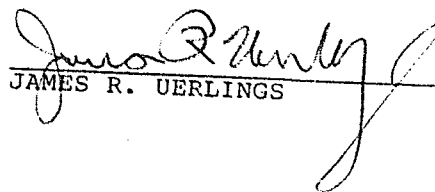
6 1. This request for a conditional use permit on
7 the subject property meets all the applicable Klamath County
8 Development Code criteria and policies governing such.

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

12 3. The conditions as set forth above are deemed
13 necessary to protect the health, safety and welfare of
14 the citizens of Klamath County and are made a part of
15 this Order.

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

20 DATED this 8th day of June, 1984.

21
22
23 
24 JAMES R. UERLINGS
25
26

COMPREHENSIVE PLAN POLICIES AND STATE

LAND USE GOALS 1 - 14

9721

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 June 7, 1984. Notice has been sent to neighboring property owners, 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:

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.

	<u>Complies</u>	<u>Does not Comply</u>	<u>N.A.</u>
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"/>

GOAL NO. 3 - Agricultural Lands

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

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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

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

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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.

- ☐ 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 - County Economy

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

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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

9726

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 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. The property is also accessible from Pershing Way and has adequate off-street parking.

GOAL NO. 13 - Energy Conservation

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

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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 11th day of June A.D., 19 84 at 9:37 o'clock A M, and duly recorded in Vol M84, of Deeds on page 9716.

EVELYN BIEHN, COUNTY CLERK

Fee: \$ None

by: Pam Smith, Deputy