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BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for	)	
Conditional Use Permit 57-84	)	Klamath County Planning
for Henley Congregation of	)	Findings of Fact and Order
Jehovah Witnesses	)	

A hearing was held on this matter on December 19, 1985, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Jim Spindor. The applicant was represented by Michael Miller and Thomas R. Holm. The Klamath County Planning Department was represented by Carl Shuck. The Hearings Reporter was Janet Libercajt.

Evidence was presented on behalf of the Department and on behalf of the applicant. There were other adjacent property owners present.

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

- Klamath County Exhibit A, Staff Report
- Klamath County Exhibit B, Plot Plan #1
- Klamath County Exhibit C, Assessor's Map
- Klamath County Exhibit D, Health Dept. Letter
- Klamath County Exhibit E, Telephone Co. Letter
- Klamath County Exhibit F, Highway Division Letter
- Klamath County Exhibit G, Revised Plot Plan
- Klamath County Exhibit H, Health Dept. Letter 11-7-84
- Klamath County Exhibit I, Photos

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1 Klamath County Exhibit J, Petition in Opposition
2 Klamath County Exhibit K, Letter from Highway Division
3 Klamath County Exhibit L, Health Dept. Letter 6-10-83
4 Klamath County Exhibit M, Plot Plan #2
5 Klamath County Exhibit N, Letter from Michael Miller
6 Klamath County Exhibit O, Letter from Health Dept. 6-17-85
7 Klamath County Exhibit P, Letter from Highway Div. 12-11-85
8 Klamath County Exhibit Q, Engineer's Sheet

9 The hearing was then closed, and based upon the evidence
10 submitted at the hearing, the Hearings Officer made the following
11 Conclusions of Law:

12 CONCLUSIONS OF LAW:

13 1. The proposed use is conditionally permitted in the zone
14 within which it is proposed to be located.

15 2. The location, size, design and operating characteristics
16 of the proposed use are in conformance with the Klamath County
17 Comprehensive Plan.

18 3. The location, size, design and operating characteristics
19 of the proposed development will be compatible with and will not
20 have significant adverse affects on the appropriate development
21 and use of abutting property owners and the surrounding
22 neighborhood so long as the conditions set forth hereinbelow are
23 followed.

24 4. The granting of this Conditional Use Permit is con-
25 sistent with the goals of the L.C.D.C.

26 5. The granting of this Conditional Use Permit is
27 conditioned as follows:

28 a. The applicant shall follow the plot plan set forth

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1 in Exhibit "M" herein.

2 b. The applicant shall obtain written approval from
3 the Klamath County Health Department with regard to the
4 septic system which will be on the property, and shall
5 follow all conditions set by that department.

6 c. The applicant shall take necessary steps to ensure
7 that the surface water run-off from the applicant's property
8 shall not flow onto Mr. Fisher's property, which is
9 Tax Lot 4300 on Exhibit "C" herein, nor unto other adjoining
10 property not belonging to the applicant.

11 d. Access to the property shall be only from Henley
12 Road, and shall be approved by the Oregon State Highway
13 Division prior to use of the property.

14 e. The applicant shall provide for an adequate setback
15 from Highway 39 so as not to interfere with possible future
16 widening of this highway, and said setback shall be approved
17 by the Oregon State Highway Division prior to use of the
18 property.

19 f. The applicant shall encourage all persons coming to
20 the church to use Henley Road as a route to the church,
21 when the weather and other factors allow safe travel on this
22 road.

23 g. The applicant shall screen the portion of their
24 property which abuts the Fisher property, so that the
25 Fishers or other occupants of this property shall not have
26 a direct view of the applicant's property.

27 h. The applicant shall take necessary steps to ensure
28 that persons using this property will not trespass onto

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1 adjoining lands.

2 i. The applicant shall, as much as is practical,
3 schedule use of the property so as not to coincide with
4 activities at the nearby schools, so as to avoid the
5 problem of excess traffic.

6 FINDINGS OF FACT:

7 This requested use has been granted with conditions based
8 on the following Findings of Fact:

9 1. This is an application to allow a religious assembly on
10 a parcel in the Henley area; the property in question is zoned
11 R-1.

12 2. The property in question is located at the southwest
13 corner of Henley Road and Highway 39. The property is approx-
14 imately rectangular in shape and consists of 4.77 acres. This
15 Conditional Use Permit is requested on the northerly 1.77 acres.

16 3. Notice of this hearing was sent to surrounding property
17 owners, to concerned public agencies, and published in the
18 Herald & News, the Klamath Falls newspaper.

19 4. The property is in the rural community of Henley, which
20 includes residential, commercial and educational uses. Henley
21 Elementary, Junior High and High School are all near to the
22 property in question, across Highway 39. By law, a church is one
23 of the allowed uses in an agricultural area. (ORS 215.283(1)(b)).

24 5. The area soils have no timber productivity rating, and
25 there is no history of forest use in the vicinity.

26 6. There are no known Goal 5 resources on or adjacent to
27 this property.

28 7. This property has been denied for standard septic

1 systems. However, as set forth in Exhibit "L", the alternative
2 bottomless sand filter system is suitable.

3 8. No natural hazards are known to affect the area.

4 9. The establishment of a church at this site would not
5 affect the need for or availability of recreational facilities.

6 10. There would be short-term economic benefits resulting
7 from the construction of the church and other property im-
8 provements. There would be some loss to the County of property
9 tax revenues (as the current taxes are \$373.02 per year).

10 11. The establishment of the church would not affect
11 housing needs.

12 12. Because of the septic problems mentioned hereinabove,
13 this property could not be developed to the full residential
14 density allowed by the R-1 zone.

15 13. Electrical and telephone services are available to the
16 site. The property is in County Fire District No. 1, and within
17 the Basin Transit District.

18 14. As stated, the property is at the intersection of
19 Henley Road and Highway 39. The State Highway Division points
20 out that this area is frequently congested and some widening of
21 Highway 39 may be required. It is a recommendation of the State
22 Highway Department that access to this property be allowed only
23 from Henley Road and not from Highway 39. See Exhibit "K" herein
24 which sets out the Highway Division concern in this regard as
25 well as other concerns which they have for this immediate area.

26 15. The proposal conserves energy by being centrally
27 located in an area where all needed utilities are already
28 available.

16. The property is outside of urban or urbanizing areas.
 17. There was substantial objection to the granting of this permit from nearby property owners. Mr. and Mrs. Fisher

objected to having a church next door in general; they were specifically concerned about: (1) surface water run-off onto their property which would cause flooding, (2) the problem of excess traffic in the area, especially when combined with the activities of the Henley schools, (3) the dangerousness of the intersection of Highway 39 and Henley Road, and the fact that most church patrons would use Highway 39 as a route to the church, (4) that persons attending the church would trespass onto their land, and (5) that the road into the church would interfere with their property.

Several other persons testified to their objections to the granting of this permit, being especially concerned about the traffic congestion and the intersection of Highway 39 and Henley Road, and further, about the surface water run-off problem. A petition of persons opposed to the granting of this permit with the reasons attached thereto is set forth in Exhibit "J" herein.

In response to these objections, the applicants' representatives testified they will do everything possible to be "good neighbors" and to cooperate with nearby property owners to the best of their ability.

The Hearings Officer, based on the foregoing Findings of Fact, accordingly orders as follows:

That real property described as
 "being generally located on the southwest corner of Henley

1 Road and Highway 39, and more particularly described
2 as Tax Lots 4100 and 4200, located in the SE 1/4 NE 1/4 of
3 Section 25, Township 39, Range 9, Klamath County,
4 Oregon,"

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5 is hereby conditionally granted a Conditional Use Permit in
6 accordance with the terms of the Klamath County Zoning Ordinance
7 No. 45.2, and, henceforth, will be allowed to establish a
8 religious assembly in the R-1 zone.

9 Entered at Klamath Falls, Oregon, this 31st Day of
10 January, 1986.

11 KLAMATH COUNTY HEARINGS DIVISION
12
13
14

15 Jim Spindor
16 Jim Spindor, Hearings Officer

17 STATE OF OREGON: COUNTY OF KLAMATH: ss.

18 Filed for record at request of _____
19 of February A.D., 19 86 at 9:40 o'clock A M., and duly recorded in Vol. M86 day
20 of Deeds on Page 2012

21 FEENone

22 Return to: Commissioners Journal

23 Evelyn Biehn
24 By Deborah A. Hetch County Clerk