

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for ) VARIANCE NO. 7-88  
 a Variance for PRAKASH PATEL and ) FINDINGS OF FACT, CONCLUSIONS  
 PARESH PATEL. ) OF LAW AND DECISION

This matter came before William M. Ganong, the Hearings Officer of Klamath County, Oregon, on June 16, 1988 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to Notice given in conformity with the Klamath County Land Development Code and related ordinances. The Applicants were represented by Charles F. Justus, Jr. The Klamath County Planning Department was represented by Carl Shuck and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT:

1. This application is for a variance from the off street parking requirements of the Klamath County Land Development Code. The Applicants desire to add 12 motel units and a restaurant containing 837 square feet of seating area to the Klamath Inn which currently has 52 motel units.
2. The subject lot is located at 4061 S. 6th Street, Klamath Falls, Oregon and is Klamath County Assessor tax account 525104. The property contains approximately one acre and is triangular in shape.
3. The property fronts on South Sixth Street and lies between the A Canal and Derby Street. The restaurant would be constructed above the existing swimming pool and the additional motel rooms would be constructed in the north corner of the property. There is an existing easement way between the subject property and South Sixth Street which is used by the patrons of the Applicants and of the neighboring commercial uses.

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4. The Land Use Code requires the addition of 52 off street parking spaces for the proposed additions. The Applicants request that the said requirement be reduced to nine spaces. The Applicants expect that the primary breakfast and dinner patrons of the restaurant will be the people occupying the motel rooms. Additional parking is not needed for said restaurant patrons. During the daytime hours the motel rooms are not occupied and the existing spaces will provide adequate parking. However, there will be times, particularly during breakfast and dinner hours when additional, safe parking will be needed.

5. Derby Street is paved but has no curbs or sidewalks. An open drainage ditch lies between the street and the subject property. The boundary of the subject property is fenced. The Applicants intend to add a driveway from the subject property to Derby Street.

6. The only relevant comments received prior to the hearing from the public or agencies were from the Oregon State Highway Division which is concerned that the proposed additions not encroach on the highway right of way and that no additional access to South Sixth Street be developed without the State's consent. All of the proposed additions are back away from South Sixth Street and no additional access to South Sixth Street is planned.

7. The subject property has good access and vehicular circulation. The existing development of all the adjoining and surrounding land precludes expansion of the facility on any nearby land.

8. The subject property is inside the Klamath Falls urban growth boundary and has full urban level public services and utilities.

#### KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Klamath County Land Development Code Section 43.003 sets forth the criteria which must be addressed in reviewing an application for a Variance.

Klamath County Land Development Code Section 68.001 contains the off street parking requirements.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

The following Findings of Facts and Conclusions are made concerning the review criteria set forth in Section 43.003 of the Land Development Code:

1. The literal enforcement of the Code in this situation would result in unnecessary hardship. The size and shape of the subject parcel precludes the provision on the subject property of all the off street parking spaces required by the Code. Adequate parking can be provided off site.
2. The condition causing the difficulty was not created by the Applicant. The size and shape of the subject property and the full development of the surrounding land precludes the addition of the restaurant if the off street parking requirements of the Code are enforced.
3. Subject to compliance by the Applicants with conditions set forth hereinafter, the granting of the variance will not be detrimental to the public health, safety and welfare or to the use and enjoyment of adjacent properties and will not be contrary to the intent of this code.

ORDER

The subject application for a Variance from the parking requirements of the Land Development Code is granted subject to the following conditions:

1. The Applicants shall provide and maintain not less than nine off street parking places;
2. Prior to commencing construction of the restaurant the Applicants shall install a curb and sidewalk along the east side of Derby Street for the length of the applicants property. Said improvements to Derby Street shall include the installation of drainage structures as required by the Public Works Director. The sidewalk shall be not less than five feet wide. All of the said

improvements to the street shall be subject to the review and direction of the Public Works Director.

3. The Applicants shall comply with all other requirements of the Land Use code, other County ordinances, rules and regulations, and other applicable laws.

DATED this 22nd day of June, 1988.

*William M. Ganong*  
 William M. Ganong  
 Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of the Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County  
 of June A.D., 1988 at 9:06 o'clock A. M., and duly recorded in Vol. M88  
 of Deeds on Page 9957  
 FEE None  
 Evelyn Biehn  
 By Pauline Mullendore County Clerk