

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for)	VARIANCE NO. 19-88
a Variance for WAGGONER PLAZA)	FINDINGS OF FACT, CONCLUSIONS
LTD.)	OF LAW AND DECISION

This matter came before William M. Ganong, the Hearings Officer of Klamath County, Oregon, on January 5, 1989 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 Applicant was represented by its officer Craig Porter. 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 Applicant has requested a Variance from the provisions of LDC §63.004(B)(3) to construct and maintain a flag pole 78 feet in height. Said section limits the height of structures to 50 feet. The flag pole will be constructed in the Town & County Shopping Center on South Sixth Street, Klamath Falls, Oregon and approximately 40 feet south of the State Highway right of way.
2. The subject property is more particularly described as Klamath County Assessor's tax lot No. 3909-3DA-900.
3. The subject property is served by urban level public utilities and services.

'89 JAN 24 AM 11 24

4. The Oregon State Highway Department submitted a letter requesting that the flag pole and flag not be constructed in or overhang the Highway right of way. As the Applicant intends to construct the pole approximately 40 feet from the Highway right of way and as the flag is 38 feet in length, it should not overhang the right of way.

5. There were no objections to this Application.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

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

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(A-C) of the Land Development Code:

1. The literal enforcement of the Code in this situation would result in unnecessary hardship and no public benefit. The pole and flag will be located on the subject property and will cause no interference with any potential land use.

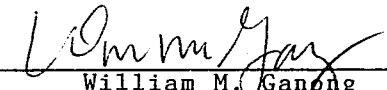
2. The approval of the subject application is consistent with the intent of the Code and past practice of the County.

3. The granting of the Variance will not be detrimental to the public health, safety or enjoyment of adjacent properties as long as the Applicant maintains the subject improvement in an orderly condition and as long as it does not overhang the State Highway right of way.

ORDER

The subject application for a Variance from height Limitations of the Klamath County Land Development Code is granted. Provided, however, the Applicant shall keep the subject improvement in an orderly condition and shall comply at all times with all other Klamath County ordinances, rules, codes and standards and with the regulations of the State Highway Division.

DATED this 20th day of January, 1989.


 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 the 24th day
 of Jan A.D., 19 89 at 11:24 o'clock A M., and duly recorded in Vol. M89,
 of Deeds on Page 1364.
 Evelyn Biehn County Clerk
 By Orville Mulbarger

FEE none