

**CITY OF KLAMATH FALLS
PLANNING COMMISSION**

**Staff Report
02-CUP-09**

March 23, 2009

I. TITLE

Request approval of a Conditional Use Permit to establish a Drug and Alcohol Treatment Facility at 2555 Main Street.

II. SUMMARY AND BACKGROUND

The applicant, Robert Bogatay for 4S LLC, proposes to convert a vacant building which was last used as a nursing home to a residential drug and alcohol treatment center. The treatment center will be residential facility meaning the clients will reside at the facility to receive treatment. Staff will be onsite 24 hours a day / 7 days a week. The 45 bed facility will be cosmetically remodeled as part of the conversion. The facility features forty five, 200 square foot residential rooms, shared bathing facilities, a central kitchen, lounge area and office space. The property is two acres in size, and the building is 22,601 square feet. The property was professionally landscaped when first developed; however, the landscaping became overgrown. The applicant is in the process of addressing the landscaping. Last year the applicant received approval to convert this building to college student housing. That proposed use never materialized. The property is addressed as 2555 Main Street, can be found on Assessor's Map R-3809-28DD Tax Lot 500, and is currently zoned Apartment.

Adjacent uses and zoning include:

- ▲ North – Retirement Center zoned Apartment Residential
- ▲ East – Vacant land zoned Apartment Residential
- ▲ South – Ponderosa Junior High zoned Public Facility
- ▲ West – Seventh Day Adventist Elementary School zoned Apartment Residential

Referring Agency Comments:

Planning: **Usage:** The property in question is zoned Apartment which permits apartment complexes, and residential facilities. The original use of the facility was a nursing home. The applicant wishes to convert the building into a residential drug and alcohol treatment facility which is not specifically listed as a use within the code, however, it is similar to a residential facility (permitted) and a hospital (conditionally permitted). Therefore, this application was processed as a conditional use permit.

Lot Coverage: The property is 25 percent covered with structures. The remaining area is either landscaped or parking. The apartment zone allows up to 60 percent of the lot to be covered with a structure(s).

Setback: The building is setback 40 feet from the front property line (Main Street), 50 feet on the east side, 32 feet on the west side, and 50 feet on the North (rear) side. The required setback for the apartment zone is 20 feet in the front, 5 feet on the sides and 10 feet in the rear.

Vision Clearance: This development is not on a corner, and therefore this is not applicable.

Parking: The CDO requires 1 space per 4 beds for a residential facility and 1 space per 2 beds for a hospital. For this 45 bed drug and alcoholic treatment facility, the parking requirement is between 12 and 23 spaces. Thirty-seven spaces are already developed on this property. Bicycle parking will be required for this development. The applicant shall install a bicycle rack capable of holding at least 4 bicycles.

Site Access: The site is accessed from two driveways on Main Street and one driveway on Williams Street. The two driveways on Main Street are paved. The driveway off of Williams Street is graveled and needs to be paved.

The property in question fronts Main Street. Main Street dead ends at the east property line of the property in question. This portion of Main Street lacks sidewalks; however it is paved with type "A" curbs and gutters. The property is 350 feet east of the closest sidewalk. Across the street (to the south) from the development is a middle school fronting Williams Street, to the west is a private elementary school fronting Main Street, and to the east is vacant property. The applicant has signed and recorded a local improvement contract waiving his rights to remonstrate against the formation of a local improvement district. The Local Improvement Contract is consistent with the City Manager Policy dated 5-8-2001

Section 8.750 of the City Code allows one driveway for each multi plex building. Although this is one building - it has three distinct wings of residential units which will be considered as three structures and used to determine the number of driveways. If the code was strictly interpreted allowing only one driveway, the complex would be out of compliance with the Fire Code. Both Main Street and Williams Street are local streets.

Fences and Screening: No fences are proposed at this time. The proposed facility abuts a private elementary school. The fence that separates these two properties is a 4 foot open chain link fence. The applicant shall replace the existing fence with a 6 foot high sight obscuring

fence to create more privacy . The proposed facility has an access easement behind the Seventh Day Adventist Elementary. This easement is defined by the 4 foot open chain link fence to the south and the slope to the north. If the applicant desires to use this easement then the 4 foot high chain link fence shall be replaced with a 6 foot high sight obscuring fence. If the applicant desires not to use this easement then it shall be gated with a 6 foot high sight obscuring fence.

Signs: No signs are proposed at this time. A freestanding sign structure exists on the property. It appears that this sign structure does not conform to the CDO sign standards for setbacks. If the sign structure is to be used a site plan shall be submitted showing the setback of the structure from the property lines. If the structure is not to be used then it shall be removed.

Landscaping: The property was professionally landscaped at the time of original development. This landscaping was overgrown from the lack of maintenance. The applicant has removed some the overgrown shrubs, or pruned them and replaced the sod bringing the facility into compliance with the landscaping standards.

Recycling Accommodations: Recycling accommodations will be provided inside the structure.

Public Works: Per the requirements of Oregon Revised Statute (ORS) 92.176; we currently do not have an application in place within our Community Development Ordinances to review if a development is situated on a “lawfully established unit of land.” Staff will be working towards creating an application for the determination and validation to determine if a unit of land not lawfully established.

Staff is bringing this issue to the developers of this project so that they can pursue the research needed if they determine it is questionable. The property was broken out over a period of time through a series of deeds. The facts at hand regarding this property and the adjacent properties are:

- The City Land Development Ordinance, which included land partitions and subdivisions, was established on February 8, 1977.
- Per Map of Survey 4532, deeds for these properties appear to have been created between 1975 and 1980, with a few undetermined dates prior to 1975.
- Map of Survey 933, which surveyed and monumented these properties, had mathematical misclosure errors and incorrect positioning of certain survey monuments.
- There further exist deed overlaps of 23 feet more or less.

- Map of Survey 4532 was prepared to show the errors of Survey 933 and the discrepancies of the deeds.

I can only recommend that the property owner/developer should consult with a registered Professional Land Surveyor, licensed in the state of Oregon who is in private practice to assist them in determining the correct property lines and if the property was lawfully created. A Land Surveyor would review this property in compliance with ORS's 92.010, 92.018, 92.060, 92.176, 92.177, 92.190, 92.345, 92.040 and 105.464. The City's review and approval of a development permit, for this project, does not constitute this property as being legally created.

Based on the information provided by the applicant, the following has been determined:

1. A Site Construction Permit will be required.
2. The appropriate additional school zone signage / striping, per the current Manual on Uniform Traffic Control Devices, shall be installed by the developer per this Conditional Use Permit due to the increase in traffic which will occur in proximity to the two schools on the east side of the Main St. / Williams St. intersection. The engineered signage / striping plans have already been submitted to City Engineering and are currently under review.
3. The easement for ingress / egress from Williams St. to this site shall either be paved by the developer (full length, width to be determined prior to submitting design plans to City Engineering), or barricaded at the property line of this site such that the easement cannot be used for vehicular traffic. If paved, private storm water detention will also be required. See section 4 of the City of Klamath Falls Public Works Engineering Standards for more information.
4. The applicant will be required to have a signed set of the Site Construction Permit set of drawings, from City Engineering office, prior to the issuance of the Site Construction Permit.
5. The applicant shall submit the attached Industrial Sewer Use Evaluation information sheet to City Engineering to determine if there are any pretreatment requirements for this site. Please note: The signature line on page 4 of this form is to be completed by a person in charge of the facility.

Fire District #1: KCFD #1 has no concerns if the proposed facility goes through occupancy change with the Building Department.

County Building: "1) The building permit submittal shall include a comprehensive code evaluations, drawings, and specifications for the project, and all shall be prepared and stamped by an

licensed Architect or Engineer license in the State of Oregon. The proposal appears to be a “Change of Use” from the recent construction project nearing completion. Plans for the new proposal will need to be reviewed of code compliance. Currently the kitchens facilities are not permitted for use. Applicant will need to obtain permit(s) for required upgrades as a commercial kitchen.

2) Building Permit application shall include site plan and development approvals from the City of Klamath Planning Department and Engineer departments. Any variations to the site plan require re-approval by the City of Klamath Falls prior to issuance of building permit(s).

3) No work shall commence prior to plan review and issuance of the appropriate building and trade permits.

4) Phased construction and / or deferred submittals required approval of the Building Division and submittals for such work shall follow established policy for plan review. No work shall commence prior to review and approval of the particular project phase.”

Opponents: Letter – From: City School District - requested a public hearing
Dated: February 25, 2009
Letter From: Dr. Van Tassel – objecting to the proposal
Dated: received February 25, 2009
Letter From: Dr. Panossian – requesting public hearing and?
continuance
Dated: March 21, 2009

Proponents: No comments received

III. RELEVANT REVIEW CRITERIA, FACTS AND ANALYSIS, AND PROPOSED FINDINGS

This proposal is being reviewed according to the provisions of the Klamath Falls Community Development Ordinance (Chapters 10-14), specifically Sections 11.100 – 11.120.

Criterion #1: The conditional use permit conforms to all provisions of Chapters 10 to 14 and any applicable street plan.

Staff Analysis: The proposed project will remodel an existing building. The driveways to this site are established onto Main Street. This portion of Main Street lacks sidewalks, curbs and gutters. The applicant signed and recorded a Local Improvement Contract stating that applicant waived his right to remonstrate against the formation of a local improvement district. As discussed in the agency comments the property meets the standards for parking, landscaping, lot coverage,

setbacks, and site access. The signage needs to be addressed. It appears the freestanding sign maybe out of compliance with setback requirement for a freestanding sign. The applicant shall document the sign's setback from the front property line (not the curb line). That information shall be submitted to the Planning Department for review and approval.

Finding: *The proposed conditional use permit will be in conformance with all applicable provisions of Chapters 10 – 14 of the Community Development Ordinance. This criterion is met with conditions.*

Criterion #2: The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls, and fences, parking, loading, landscaping, and other features required to adjust said use with land and uses in the neighborhood.

Staff Analysis: The site is already developed. The existing building covers 25 percent of the property and is large enough to accommodate the proposed use. No additions are planned at this time. The property has more parking spaces than required by the CDO, and the property is landscaped.

Finding: *The site for the proposed use is adequate in size and shape to accommodate said use. This criterion is met.*

Criterion #3: The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

Staff Analysis: The property abuts Main Street. No new driveways are being proposed at this time. This portion of Main Street is classified as a local street. The applicant recently submitted a traffic analysis letter analyzing the impacts of a 45 bed student housing complex at this facility. The analysis found that a 45 bed student housing facility would generate 27 weekday AM peak hour trips and 21 weekday PM peak hour trip. The analysis also reviewed site access, street intersection spacing, intersection sight distance, and review of the City Transportation System Plan. The analysis found the site to be in compliance with current City standards in regards to the items listed above. The traffic generated by the proposed Drug and Alcohol treatment center will be less than the analyzed Student Housing proposal; therefore, the city did not have the applicant submit a new analysis.

The street signage and striping around the schools does not meet the current standards. The applicant shall submit and street signage plans for additional school zone signage / striping, per the current Manual on Uniform Traffic Control Devices, shall be installed by the developer per this Conditional Use Permit. The applicant has already submitted this plan, and it is under review. Once approved the applicant shall be responsible for installation of these measures.

Finding: *The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use. This criterion is met with conditions.*

Criterion #4: The proposed use will have no adverse effect on abutting property or the permitted uses thereof.

Staff Analysis: The proposed use is not expected to have adverse effects on the abutting properties. The infrastructure serving the property will adequately meet the demands created by the proposed use. The traffic created by the proposed use can adequately be handled by the existing streets, and will not cause any delays to the surrounding properties. The proposals will not cause any issues with on-street parking; the property is over-parked for the proposed use.

The clients of the proposed facility, if outside are expected to use the side yard located on in the northwest side of the property. This area cannot be seen by the church or students at Ponderosa Junior High due to physical separation of the Main Street right of way and ten foot elevation separation. This area will be visible from the Seventh Day Adventist Building. It should not be visible from the playground or the paved area due to the elevation difference. To make sure the two properties are screened from each other the existing 4 foot chain link fence should removed and a 6 foot high slight obscuring fence (preferably vinyl) shall be installed. This fence shall be installed around the perimeter of the northwest courtyard. This fence will provide privacy for the clients of the proposed facility and privacy for the Seventh Days Adventist.

Finding: *The proposed use will have no adverse effect on abutting property or the permitted uses thereof. This criterion is met with conditions.*

Criterion #5: The adequate capacity of City facilities for water, sewer, paved access, electricity and storm drainage can and will be provided to and through the property.

Staff Analysis: The property was originally developed as a retirement center / nursing home. When it was in operation, up to 90 people were housed in the facility, plus supporting staff. The property was developed for that capacity. Therefore, the proposed use of up to 45 people plus supporting staff can be adequately served by the existing City infrastructure. The applicant needs to submit a sewer use evaluation, so the sewer treatment facility to determine the type of waste it will be receiving.

Finding: *The adequate capacity of City facilities for water, sewer, paved access, electricity and storm drainage can and will be provided to and through the property. This criterion is met; the existing infrastructure has adequate capacity to serve this facility.*

Criterion #6: The proposed use is similar in scale, bulk, coverage and is architecturally compatible with other uses in the area.

Staff Analysis: Not applicable. The property was developed at least twenty years ago. There are no plans to remodel the façade or construct any additions. However, the building is surrounded with similar types of large public facility types of buildings, which are similar in scale, bulk, and architecture.

Finding: *This criterion is not applicable as it is an existing structure.*

Criterion #7: Provisions of public facilities and services to the site will not cause service delivery shortage to existing developments.

Staff Analysis: Service is established in the existing building. No shortages in services are anticipated with the conversion of this building to a drug and alcohol treatment facility. The utility companies were notified of this application and did not comment.

Finding: *This criterion is met as the proposed use will not have an increased demand on the public infrastructure, and therefore will not create a shortage in these services.*

Criterion #8: The conditions stated in the decision are deemed necessary to protect the public safety and general welfare.

Staff Analysis: The conditions stated in this decision will ensure this project will be constructed to all of the City development standards.

Finding: *The conditions stated in the decision are deemed necessary to protect the public safety and general welfare. This criterion is met.*

IV. REQUESTED MOTIONS/ACTIONS

Hold a public hearing, take testimony, if desired, make a motion to approve the findings as proposed by staff, and make a motion to approve the request for a Conditional Use Permit with conditions.

PROPOSED CONDITIONS

1. The applicant shall be required to obtain a Site Construction Permit from City Engineering.
2. The appropriate additional school zone signage / striping, per the current Manual on Uniform Traffic Control Devices, shall be installed by the developer per this Conditional Use Permit due to the increase in traffic which will occur in proximity to the two schools on the east side of the Main St. / Williams St. intersection. The engineered signage / striping plans have already been submitted to City Engineering and are currently under review.
3. The easement for ingress / egress from Williams St. to this site shall either be paved by the developer (full length, width to be determined prior to submitting design plans to City Engineering), or gated at the property line of this site such that the easement cannot be used for vehicular traffic. If paved, private storm water detention will also be required. See section 4 of the City of Klamath Falls Public Works Engineering Standards for more information.
4. The applicant shall have a signed set of the Site Construction Permit set of drawings, from City Engineering office, prior to the issuance of the Site Construction Permit.
5. The applicant shall submit the attached Industrial Sewer Use Evaluation information sheet to City Engineering to determine if there are any pretreatment requirements for this site. Please note: The signature line on page 4 of this form is to be completed by a person in charge of the facility.
6. The applicant shall construct a 6 foot high sight obscuring (vinyl) fence around the perimeter of the northwest courtyard prior to the building being occupied..
7. The applicant shall install a bicycle rack capable of holding 4 bicycles by prior to the building being occupied.

8. The applicant shall submit site plan shall be submitted showing the setback of the sign structure from the property lines prior to the building being occupied.
9. The applicant shall obtain all necessary building department reviews and approvals prior to occupying the structure.

V. DOCUMENTS ATTACHED

- Vicinity Map
- Submitted Letters

VI. PUBLIC NOTICE

Notice of this public hearing was mailed to 9 adjacent property owners on March 10, 2009 and published in the Herald and News on March 12, 2009. All comments have been incorporated into this report.

Erik Nobel Planning Manager

Vicinity Map
No Scale





*Lucile O'Neill Education Center
1336 Avalon, Klamath Falls, OR 97603-4423
(541) 883-4700 • (541) 850-2766 FAX*

Dedicated to students, families, and community working together to realize individual dignity and potential

*Cecelia Amuchastegui
Superintendent*

February 25, 2009

City of Klamath Falls
Eric Nobel, Planner
P.O. Box 237
Klamath Falls, OR 97601

Dear Mr. Nobel:

The Klamath Falls City Schools would like to request a public hearing regarding File #2-CUP-09. This is a proposal to redevelop a 45-bed assisted living facility into a Drug and Alcohol Treatment Facility located at 2555 Main Street across from Ponderosa Junior High School.

Notice of the hearing date and time can be given to the Superintendent's Office located at 1336 Avalon, Klamath Falls, OR, 97603, or at 883-4700.

Sincerely,

A handwritten signature in black ink that reads "Cecelia Amuchastegui".

Cec Amuchastegui
Superintendent

February 25, 2009

To: Klamath Falls Planning Dept
Attn: Eric Nobel
P.O. Box 237
Klamath Falls, OR 97601

From: Adventist Christian School Board Chairman, Dr. Edward L. VanTassel
421 Sunset Beach Rd
Klamath Falls, OR 97601
vantasselwaterski@charter.net

Re: Drug and Alcohol Rehabilitation Center @ the Old Clairmont Building

Dear Mr. Nobel and City Planners,

Unfortunately, the Adventist Christian School and its board members were not timely notified of the proposal for the installation of a drug and alcohol rehabilitation center adjoining our property. It is my understanding that you sent notification of this proposal to the parent corporation in Clackamas, OR. We have just learned of this plan via the news media.

The school board members have met on this issue and unanimously voted against any such installation of a drug rehab center. Please accept this letter as a formal objection to the proposal to have a rehab center adjoining our property.

As noted, the proposed facility directly adjoins our grade school grounds. Student safety is our concern and responsibility. We feel the risk to our student's unreasonable if this facility is in place.

We are concerned for the potential for drugs/alcohol near our school and it is most probable that excessive cigarette smoking by participants on our property boundaries will be experienced.

In addition to the real risks to students there is the issue of perceived risks. Parents who perceive this facility as a risk will withdraw their students from our school. This would jeopardize our program significantly.

Please contact me regarding any further action on this issue.

Sincerely,



Dr. Edward L. VanTassel
Adventist Christian School Board Chairman

Adventist Christian School
2499 Main Street
Klamath Falls, OR 97601
Phone & Fax: 541-882-4151

March 12, 2009

Regarding: Notice of Public Hearing file number 2-CUP-09

Dear Planning Commission,

The Adventist Christian School is requesting that the public hearing regarding the conditional use permit regarding the property at 2555 Main Street be postponed until the next Planning Commission meeting scheduled for April 13, 2009. We are requesting this change because the March 23 meeting is occurring during Spring Break. The two schools involved will be off during this time and the parties involved parents, teachers, students and administration will not be able to fully participate. Postponing the meeting would allow for a more complete discussion regarding the conditional use permit. We appreciate your consideration in this matter.

Sincerely,



Ed Van Tassel MD
School Board Chairman



David Panossian MD
School Board Member