

City of Klamath Falls Planning Department
Administrative Review

In the matter of an
Administrative Review for:

Final Decision and Conditions: **1-TUP-10**

Fred Meyer Store #165
ATTN: Jeff Kaiser
2655 Shasta Way
Klamath Falls, OR 97603

Date: July 2, 2010

In accordance with the provisions of Chapter 11 Sections 11.500 - 11.530 of the Community Development Ordinance (CDO), the City of Klamath Falls Planning Department has reviewed this request for a Temporary Use Permit.

NATURE OF THE PROPOSAL

The applicant, Jeff Kaiser on behalf of Fred Meyer Stores, requests approval for the temporary placement of a tent that is 40' by 60' in the parking lot of Fred Meyer Store #165 at 2655 Shasta Way. The temporary structure and port-a-potty restroom would occupy 13 parking spaces and 1 cart return space for the purposes of a side-walk/parking lot sale in conjunction with Samsung USA. The event would occur from 8:00 AM to 9:00 PM on July 16th, 17th, and 18th. The tent and restroom would occupy the 4th northerly parking island that is positioned east-west and is located closest to Washburn Way. The electronics within the tent would be powered by a temporary 110 volt electricity service, but would not require water or sewer services. The property can be found on Assessor's Map R-3809-034CC Tax Lot 301 and is zoned General Commercial.

AGENCY COMMENTS

Planning:

1. **Standards:** The applicant has submitted evidence that the temporary occupancy required is limited in duration by the purposes for which the permit is sought, such as Christmas tree sales, temporary banking or office facilities, parade stands, circuses, fairs or other exhibitions and other obviously temporary needs as required by CDO 11.510 (3).
2. **Parking:** This Fred Meyer Store has gone through a multitude of land use processes, most recently design review 3-DR-10 for a 22 foot addition to the Fred Meyer fueling facility. The Community Development Ordinance (CDO) 14.010 requires 1 off street parking space for every 250 sq ft of retail. The 172,264 sq ft Fred Meyer Store #165 requires a total of 689 parking spaces. Fred Meyer Store #165 was granted a parking variance to provide a total of 582 parking spaces, a variance of approximately 15.5%. The proposed location of the tent would temporarily displace 13 parking spaces, none of which are parking spaces for people with disabilities. The total number of parking spaces available would be reduced to 569 during the promotional sales event.

Engineering:

“There are no proposed changes to any existing City water or sewer services to the properties shown per this application request. City Engineering does not anticipate any increases to existing traffic counts that would warrant a traffic analysis. From a public works position we have no concerns regarding this Temporary Use Permit.”

Bureau of Reclamation:

“In response to the City of Klamath Falls Planning Departments administrative review request for the subject applicant’s proposal to a temporary 40’ x 60’ tent for the purpose of a parking lot sale at the Fred Meyer on Shasta Way, the Bureau of Reclamation has no comments and/or concerns at this time. There are no Reclamation facilities adjacent to or in the vicinity of the proposed construction site.”

Klamath County Building Depart:

“A building permit is required per Oregon Structural Specialty Code Section 3103 (see attachment).”

Klamath County Fire District #1: No comments were received.

Klamath County Public Health: No comments were received.

RELEVANT REVIEW CRITERIA

Per the Community Development Ordinance (CDO) the Planning Department cannot approve a request unless certain criteria are met. **The required Findings per Community Development Ordinance Section 11.510 and 11.515 are as follows:**

11.510 Standards Criterion:

Subsection (3): The temporary occupancy required is limited in duration by the purposes for which the permit is sought, such as Christmas tree sales, temporary banking or office facilities, parade stands, circuses, fairs or other exhibitions and other obviously temporary needs.

Facts: The proposed temporary tent would be used only during the side-walk/parking lot sale that is being held in conjunction with Samsung USA. The temporary tent shall be removed sometime after the commencement of the event at 9:00 PM on July 18th and before July 20th, 2010.

Finding: This criterion has been met based on the Facts.

Required Findings:

- 1. Criterion:** **The location, size, design and operating characteristics of the proposed temporary structure, if applicable, will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity.**

Staff Analysis: The proposed temporary tent would be located on General Commercial zoned property and is for the purpose of selling televisions and home theater systems during the side-walk/parking lot sale that is being held in conjunction with Samsung USA at Fred Meyer Store #165. No food or beverage sales are involved. Neighboring properties to the north and east of the subject property are developed, and used, for commercial purposes. The subject property abuts street right-of-way to the south and west. The tent set-up would occupy 13 parking spaces and 1 cart return space. According to the applicant the tent is 40' by 60' and would be erected by The Party Place.

If trash and/or recycle receptacles are utilized they shall be orderly. Port-a-potty restroom facilities are being proposed for Fred Meyer employees. Customer restrooms are located inside the store. There is no outdoor lighting or sound systems proposed for the event.

The temporary tent would be located west of the Fred Meyer store, in the 4th northerly parking island that is positioned east-west and is located closest to Washburn Way.

Finding: The proposed temporary tent would be compatible with and have no adverse affect on the livability or appropriate development of abutting properties if the hours of operation are limited from 8:00 AM to 9:00 PM.
This Criterion is met with conditions.

2. Criterion: **The proposed temporary structure will not adversely affect the capacity, circulation or generation of traffic on streets or other public ways in the vicinity.**

Staff Analysis: The temporary tent would have to be removed sometime after the commencement of the event at 9:00 PM on July 18th and before July 20th, 2010. The subject property has a total of 582 standard parking spaces. The temporary tent would only occupy 13 standard parking spaces and should not cause any parking supply shortages. The tent shall not be located in the parking lot vehicular access aisles or in any public right-of-way. All of the other existing parking spaces, and areas used for site circulation and access should be kept free of the tent.

Finding: The temporary tent shall be used in addition to, the permanent structures, and all existing parking spaces (except for the 13 needed for the tent space) and areas used for site circulation and access shall be kept free of the tent. Given these conditions, there should be no adverse affect on the capacity, circulation or generation of traffic on streets or other public ways in the vicinity. **This Criterion is met with conditions.**

3. Criterion: **The use of the proposed temporary structure is consistent with the spirit and intent of the zone where the structure is to be located and does not create a substantial property right not enjoyed by others within the same zone.**

Staff Analysis: The proposed temporary tent would only be used during the side-walk/parking lot sale that is being held in conjunction with Samsung USA at Fred Meyer Store #165 from 8:00 AM to 9:00 PM on July 16th, 17th, and 18th. All current and proposed uses of the property are permitted in General Commercial zones.

Finding: The use of the proposed temporary structures should be consistent with the spirit and intent of the zone where the tent is proposed to be located and should not create a substantial property right not enjoyed by others within the same zone as long as the permitted tent is removed once the sales event commences. **This Criterion is met with conditions.**

DECISION

After consideration of all staff, agency and citizen comments, and reviewing various data, the application is **approved** as presented subject to the following conditions:

CONDITIONS

1. The hours of operation for the temporary structure shall not exceed the established hours of 8:00 AM to 9:00 PM on July 16th, 17th, and 18th.
2. The temporary tent, temporary restroom facilities, and all associated event products shall be removed prior to July 20th, 2010.
3. All existing parking spaces and areas (except the 13 parking spaces and 1 cart return space) being used for site circulation and access shall be kept free of the temporary tent and its patrons.
4. The applicant shall obtain electrical permits and building permits from the Klamath County Building Department (305 Main Street) prior to erecting the tent.
5. All businesses located on the subject property shall maintain a valid City Business License.
6. All contractors and subcontractors associated with the project shall obtain a current City Business License prior to working on site. Temporary Business Licenses are available in certain circumstances. Please contact City of Klamath Falls Business License Administrator (541-883-5360), Fran Smith, for more information.
7. The applicant shall obtain a sign permit from the Planning Department prior to placing any signs on the site.

This **Temporary Use Permit** has met the condition and scope of the City of Klamath Falls Comprehensive Plan, acknowledged by the Oregon State Land and Conservation Development Commission on May 31, 1984. In doing so, this Temporary Use Permit does address the appropriate policies encompassed in the Comprehensive Plan.

DOCUMENTS ATTACHMENTS

1. Attachment from building department regarding Oregon Structural Specialty Code Section 3103

APPLICANTS ARE ADVISED THAT THIS DECISION IS FINAL AS OF THE DATE OF MAILING THIS DECISION (JULY 2, 2010), UNLESS WRITTEN APPEAL AND A \$200 APPEAL FEE IS FILED WITH THE CITY PLANNING DEPARTMENT WITHIN 12 DAYS OF THE DATE OF MAILING.

Please be advised that this temporary use permit (1-TUP-10) is valid from July 15th through July 19th, 2010. The temporary tent, temporary restroom facilities, and all associated event products shall be removed prior to July 20th, 2010.

DATED THIS 2ND DAY OF JULY 2010.

Kelly O'Neill
Planner

cc: Rick Bowman, Code Enforcement Officer
Tom Del Santo, Development Coordinator
Fran Smith, Business License Administrator

ATTACHMENT FROM BUILDING DEPARTMENT

CHAPTER 31

SPECIAL CONSTRUCTION

SECTION 3101 GENERAL

3101.1 Scope. The provisions of this chapter shall govern special building construction including membrane structures, temporary structures, *pedestrian walkways* and tunnels, automatic vehicular gates, *awnings* and canopies, marquees, signs, and towers and antennas.

SECTION 3102 MEMBRANE STRUCTURES

3102.1 General. The provisions of this section shall apply to air-supported, air-inflated, membrane-covered cable and membrane-covered frame structures, collectively known as membrane structures, erected for a period of 180 days or longer. Those erected for a shorter period of time shall comply with the *Fire Code*. Membrane structures covering water storage facilities, water clarifiers, water treatment plants, sewage treatment plants, greenhouses and similar facilities not used for human occupancy are required to meet only the requirements of Sections 3102.3.1 and 3102.7. Membrane structures erected on a building, balcony, deck or other structure for any period of time shall comply with this section.

3102.2 Definitions. The following words and terms shall, for the purposes of this section and as used elsewhere in this code, have the meanings shown herein.

AIR-INFLATED STRUCTURE. A structure that uses air-pressurized membrane beams, arches or other elements to enclose space. Occupants of such a structure do not occupy the pressurized area used to support the structure.

AIR-SUPPORTED STRUCTURE. A building wherein the shape of the structure is attained by air pressure and occupants of the structure are within the elevated pressure area. Air-supported structures are of two basic types:

Double skin. Similar to a single skin, but with an attached liner that is separated from the outer skin and provides an airspace which serves for insulation, acoustic, aesthetic or similar purposes.

Single skin. Where there is only the single outer skin and the air pressure is directly against that skin.

CABLE-RESTRAINED, AIR-SUPPORTED STRUCTURE. A structure in which the uplift is resisted by cables or webbings which are anchored to either foundations or dead men. Reinforcing cable or webbing is attached by various methods to the membrane or is an integral part of the membrane. This is not a cable-supported structure.

MEMBRANE-COVERED CABLE STRUCTURE. A nonpressurized structure in which a mast and cable system provides support and tension to the membrane weather barrier and the membrane imparts stability to the structure.

MEMBRANE-COVERED FRAME STRUCTURE. A nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane which provides the weather barrier.

NONCOMBUSTIBLE MEMBRANE STRUCTURE. A membrane structure in which the membrane and all component parts of the structure are noncombustible.

3102.3 Type of construction. Noncombustible membrane structures shall be classified as Type IIB construction. Noncombustible frame or cable-supported structures covered by an *approved* membrane in accordance with Section 3102.3.1 shall be classified as Type IIB construction. Heavy timber frame-supported structures covered by an *approved* membrane in accordance with Section 3102.3.1 shall be classified as Type IV construction. Other membrane structures shall be classified as Type V construction.

Exception: Plastic less than 30 feet (9144 mm) above any floor used in greenhouses, where occupancy by the general public is not authorized, and for aquaculture pond covers is not required to meet the fire propagation performance criteria of NFPA 701.

3102.3.1 Membrane and interior liner material. Membranes and interior liners shall be either noncombustible as set forth in Section 703.4 or meet the fire propagation performance criteria of NFPA 701 and the manufacturer's test protocol.

Exception: Plastic less than 20 mil (0.5 mm) in thickness used in greenhouses, where occupancy by the general public is not authorized, and for aquaculture pond covers is not required to meet the fire propagation performance criteria of NFPA 701.

3102.4 Allowable floor areas. The area of a membrane structure shall not exceed the limitations set forth in Table 503, except as provided in Section 506.

3102.5 Maximum height. Membrane structures shall not exceed one *story* nor shall such structures exceed the height limitations in feet set forth in Table 503.

Exception: Noncombustible membrane structures serving as roofs only.

3102.6 Mixed construction. Membrane structures shall be permitted to be utilized as specified in this section as a portion of buildings of other types of construction. Height and area limits shall be as specified for the type of construction and occupancy of the building.

3102.6.1 Noncombustible membrane. A noncombustible membrane shall be permitted for use as the roof or as a skylight of any building or atrium of a building of any type of construction provided it is at least 20 feet (6096 mm) above any floor, balcony or gallery.

SPECIAL CONSTRUCTION

3102.6.1.1 Membrane. A membrane meeting the fire propagation performance criteria of NFPA 701 shall be permitted to be used as the roof or as a skylight on buildings of Types IIB, III, IV and V construction, provided it is at least 20 feet (6096 mm) above any floor, balcony or gallery.

3102.7 Engineering design. The structure shall be designed and constructed to sustain dead loads; loads due to tension or inflation; live loads including wind, snow or flood and seismic loads and in accordance with Chapter 16.

3102.8 Inflation systems. Air-supported and air-inflated structures shall be provided with primary and auxiliary inflation systems to meet the minimum requirements of Sections 3102.8.1 through 3102.8.3.

3102.8.1 Equipment requirements. This inflation system shall consist of one or more blowers and shall include provisions for automatic control to maintain the required inflation pressures. The system shall be so designed as to prevent overpressurization of the system.

3102.8.1.1 Auxiliary inflation system. In addition to the primary inflation system, in buildings exceeding 1,500 square feet (140 m²) in area, an auxiliary inflation system shall be provided with sufficient capacity to maintain the inflation of the structure in case of primary system failure. The auxiliary inflation system shall operate automatically when there is a loss of internal pressure and when the primary blower system becomes inoperative.

3102.8.1.2 Blower equipment. Blower equipment shall meet all of the following requirements:

1. Blowers shall be powered by continuous-rated motors at the maximum power required for any flow condition as required by the structural design.
2. Blowers shall be provided with inlet screens, belt guards and other protective devices as required by the *building official* to provide protection from injury.
3. Blowers shall be housed within a weather-protecting structure.
4. Blowers shall be equipped with backdraft check dampers to minimize air loss when inoperative.
5. Blower inlets shall be located to provide protection from air contamination. The location of inlets shall be *approved*.

3102.8.2 Standby power. Wherever an auxiliary inflation system is required, an *approved* standby power-generating system shall be provided. The system shall be equipped with a suitable means for automatically starting the generator set upon failure of the normal electrical service and for automatic transfer and operation of all of the required electrical functions at full power within 60 seconds of such service failure. Standby power shall be capable of operating independently for a minimum of 4 hours.

3102.8.3 Support provisions. A system capable of supporting the membrane in the event of deflation shall be provided for in air-supported and air-inflated structures having

an *occupant load* of 50 or more or where covering a swimming pool regardless of *occupant load*. The support system shall be capable of maintaining membrane structures used as a roof for Type I construction not less than 20 feet (6096 mm) above floor or seating areas. The support system shall be capable of maintaining other membranes at least 7 feet (2134 mm) above the floor, seating area or surface of the water.

SECTION 3103 TEMPORARY STRUCTURES

3103.1 General. The provisions of this section shall apply to structures erected for a period of less than 180 days. Tents and other membrane structures erected for a period of less than 180 days shall comply with the *Fire Code*. Those erected for a longer period of time shall comply with applicable sections of this code.

3103.1.1 Permit required. Temporary structures that cover an area in excess of 120 square feet (11.16 m²), including connecting areas or spaces with a common *means of egress* or entrance which are used or intended to be used for the gathering together of 10 or more persons, shall not be erected, operated or maintained for any purpose without obtaining a *permit* from the *building official*.

3103.2 Construction documents. A *permit* application and *construction documents* shall be submitted for each installation of a temporary structure. The *construction documents* shall include a site plan indicating the location of the temporary structure and information delineating the *means of egress* and the *occupant load*.

3103.3 Location. Temporary structures shall be located in accordance with the requirements of Table 602 based on the *fire-resistance rating* of the *exterior walls* for the proposed type of construction.

3103.4 Means of egress. Temporary structures shall conform to the *means of egress* requirements of Chapter 10 and shall have a maximum *exit access* travel distance of 100 feet (30 480 mm).

SECTION 3104 PEDESTRIAN WALKWAYS AND TUNNELS

3104.1 General. This section shall apply to connections between buildings such as *pedestrian walkways* or tunnels, located at, above or below grade level, that are used as a means of travel by persons. The *pedestrian walkway* shall not contribute to the *building area* or the number of *stories* or height of connected buildings.

3104.2 Separate structures. Connected buildings shall be considered to be separate structures.

Exceptions:

1. Buildings on the same lot in accordance with Section 503.1.2.
2. For purposes of calculating the number of Type B units required by Chapter 11, structurally connected