

**RECORD OF TYPE III DECISION
DECISION OF THE PLANNING COMMISSION
FOR THE CITY OF BANDON, OREGON**



FILE NUMBER: 24-007

LOCATION: 355 Oregon Ave SE, 28S-14W-30CB TL 4100

APPLICANT'S REP: Joseph Slack, HE Architects, Inc.

PROPERTY OWNER: Holy Trinity Catholic Church

REQUEST: Approval of a conditional use permit to remodel and enlarge an existing church. A new church building approximately 5,357 square feet in size will replace the current 3,200 square foot building. Additional improvements to off-street parking and exterior lighting were also proposed.

REVIEWING BODY: Planning Commission

APPLICATION HISTORY: Date application was deemed complete: March 19th, 2024
1st Evidentiary hearing (Planning Commission): June 27th, 2024
Planning Commission Date of Decision: July 25th, 2024

APPLICABLE CRITERIA: BMC (Bandon Municipal Code) Chapters:
16.12, Conditional Uses
17.20, Controlled Development 1 (CD-1)
17.96, Off-Street parking & Loading

FINAL ORDER: **APPROVED WITH CONDITIONS**

SIGNED: This 25th day of July 2024.

A handwritten signature in black ink that reads "Bear Slothower". The signature is written in a cursive style.

Bear Slothower, Chair

EXPIRATION:
This approval expires two (2) years from the effective date, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permit activity is being regularly conducted on the premises.

EFFECTIVE DATE OF DECISION:

Unless the conditions of approval specify otherwise, the Decision becomes effective 21 days after the City mails the decision notice, unless the decision is appealed.

Recitals

1. Holy Trinity Catholic Church is the record owner of certain real property located in the City of Bandon at 355 Oregon Ave SE, and more specifically known as Township 28 South, Range 14 West, Section 30CB, Tax Lot 4100. The subject property is located in Bandon’s Controlled Development 1 (“CD-1”) zone.
2. On February 6th, 2024, Holy Trinity Catholic Church and Joe Slack from HE Architects, Inc., (collectively the “Applicants”) filed a Type III application (the “Application”) with the City of Bandon Planning Department for a conditional use permit for a reconstruction of an existing church on property zoned Controlled Development (CD-1).
3. On March 19th, 2024, City staff deemed the Application complete.
4. On June 27th, the Planning Commission met for the initial evidentiary hearing for the Application. At that meeting a member of the public requested the Commission keep the record open for an additional seven days, which is permitted by ORS 197.797(6)(a), and a subsequent request to respond to the new testimony. The Applicants were then given seven days to make a final argument and submit a final rebuttal, as allowed in ORS 197.797(6)(e). The record before the Planning Commission was closed on July 11th, 2024.
5. On July 25th, the Planning Commission considered the evidence and arguments in the record and deliberated towards a decision. In a vote of 6 to 0, the Planning Commission approved the Application, adopting the Procedural Staff Report dated June 27th, 2024, and the Addendum Staff Report of the same date, as the Findings of Fact, imposing the following conditions of approval:

Condition of Approval #1: The Zoning Compliance application shall be accompanied by a revised site plan showing all off-street parking spaces confined within the boundaries of the property. The two parking spaces in the City’s right-of-way must be removed. This plan must include at least 39 parking spaces that are at least 8.5’x 19’ to meet the city’s minimum standards. This plan shall be reviewed and approved by the City’s engineer for compliance with the Americans with Disabilities Act (ADA) and Architectural Graphic Standards. Additionally, this plan will be reviewed to ensure that proper fire access is provided. Zoning Compliance approval will not be issued until a revised site plan addressing Condition of Approval #1 is supplied to the Bandon Planning Department.

Condition of Approval #2: Prior to approval of the Zoning Compliance, the applicant shall submit a final drainage plan showing feasibility of the site’s ability to accommodate run-off. The drainage plan is subject to review and approval by the Public Works Department or their designee and is subject to revisions as dictated by Public Works Department or their designee.

Condition of Approval #3: As part of Zoning Compliance review, the applicant shall submit a revised site plan showing a fence on the south property line. Site Plan shall include a cut-sheet detailing the type and materials of fencing and shall be sight-obscuring and not less than five feet in height nor more than six feet in height.

Condition of Approval #4: The applicant's lighting plan submitted for zoning compliance shall be in substantial conformance with the type, material, and location of light poles proposed as part of this approval. The lights shall be on a motion sensor and dimmed to at least 50% when not in use and shall also be shielded so as to not cause shine, glare or light pollution falling onto adjacent properties. Maintaining shielding of the lights is the on-going responsibility of the property owner.

FINDINGS OF FACT AND LAW:

The following findings and conclusions are based upon the application, plans, and all written testimony for the above-referenced Holy Trinity Catholic Church project, submitted before the close of the record on July 11th, 2024.

Jurisdiction: The Bandon Planning Commission has jurisdiction over this decision pursuant to BMC Table 16.04.020, which states that a Conditional Use Permit ("CUP") is initially reviewed by the Planning Commission and appealed to the City Council.

Procedural Burden of Proof: The Bandon Municipal Code, chapter 16.12, Conditional Uses, chapter 17.20, Controlled Development 1, and chapter 17.96, Off-Street Parking and Loading apply to the request. Conformance with the criteria is discussed in detail in the Staff Report dated June 27th, 2024 and the Addendum Staff Report of the same date.

At the initial evidentiary hearing, Staff provided a presentation to the Planning Commission outlining the proposal and identifying issues with the application that may require greater detail before Planning Commission approval. These issues included parking, lighting, and fencing.

Parking: The applicant's initial parking plan did not identify the size of the parking spaces, showed parking in the City's right-of-way, and did not include sufficient parking to meet the City's minimum parking requirements. Prior to the initial evidentiary hearing, the applicant submitted a letter from the property owner indicating that parking will be shared among the uses, as allowed by BMC 17.96.040(D). The applicant also agreed to remove the parking spaces in the City's right-of-way. Finally, the applicant submitted a parking plan showing that there are at least 39 parking spaces that meet the City's minimum parking space size, as required by 17.96.050(E).

To ensure compliance with the criteria in Chapter 17.96, the Planning Commission requires the following condition of approval:

Condition of Approval #1: The Zoning Compliance application shall be accompanied by a revised site plan showing all off-street parking spaces confined within the boundaries of the property. The two parking spaces in the City's right-of-way must be removed. This plan must include at least 39 parking spaces that are at least 8.5'x 19' to meet the city's minimum standards. This

plan shall be reviewed and approved by the City's engineer for compliance with the Americans with Disabilities Act (ADA) and Architectural Graphic Standards. Additionally, this plan will be reviewed to ensure that proper fire access is provided. Zoning Compliance approval will not be issued until a revised site plan addressing Condition of Approval #1 is supplied to the Bandon Planning Department.

Lighting: Bandon Municipal Code, Chapter 16.12, Conditional Uses allows the Planning Commission to impose conditions that the City considers necessary to assure that the use is compatible with other uses in the vicinity and to protect the city as a whole (16.12.020). The approval standards in 16.12.040 require that the site provides adequate area for aesthetic treatment to mitigate possible adverse effects from the use of surrounding properties and uses (D) and that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the permitted uses listed in the underlying zoning district (G). Staff identified that the lighting plan initially provided by the applicant might not be sufficient to ensure the use is compatible with the neighboring properties after receiving multiple complaints about light intensity, direction, and location. The authority to impose a condition around lighting is explicitly stated in 16.12.020(K), *limiting or setting standards for the location and intensity of outdoor lighting*.

Public testimony, both oral and written, included concerns from neighbors about the lights from the Church's parking lot shining or providing glare on neighboring properties. Shirley Burek is a neighbor directly across the street who has experience glare from the tall lights, and too many light heads have disturbed the view of the night sky. Jennifer Wirsing, another neighbor, commented that the church installed the existing lights without permission and finds the existing lights to violate the requirement in 17.96.050(D), which states that, *Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling*.

During the open record period, Ms. Burek and Ms. Wirsing responded to the applicant's updated lighting plan and continued to express concern about the lighting proposed. In particular, the height (20'+) of the light poles and intensity of the lights continues to be an issue.

In an effort to limit this intrusion, the applicant submitted an updated proposed lighting plan during the open record period. The proposed lighting plan includes four light poles with four heads. Previously, there were seven light poles with 21 heads. The plan also includes the following details:

1. Replace ALL fixtures on all (4) poles with night sky/full cut off/all downlight/no uplighting. See attached cut sheet, sent previously.
2. Reduce height of light fixtures by removing light fixture mounting arms from top of existing poles, mount replacement lights on the side of the pole, reducing the height by about 2.5'. See sketch.
3. Replace City interior street light/power pole with (1) light pole and fixture, same as above.
4. Provide "house" shielding/backlight control at north and south poles, same as previously submitted and explained during hearing.
5. Existing high-glare "Globe" decorative light poles (2) to be removed.
6. Remove south pole.
7. All lights will have Integral motion/ambient sensor with integral bi-level dimming device to switch the luminaire to at least 50% light output.

The Planning Commission finds that the proposed lighting plan is sufficient in specificity to meet the approval standards listed in 16.12.040 and 16.96.050(D) and that a condition of approval requiring a lighting plan in substantial conformance with these details be submitted during zoning compliance review.

Fencing: The Bandon Municipal Code 17.96.050 requires a sight-obscuring fence between parking areas and residential areas of not less than five feet nor more than six feet. A condition of approval has been added to ensure a fence is constructed on the South property line.

A comment was also received from Jeff Friedman who stated that the church is noisy and that this is a health hazard. The City's code around noise states that a noise disturbance is that which at certain levels is detrimental to the health, comfort, convenience, safety or welfare of the citizen of Bandon. The Planning Commission finds that there is not sufficient evidence in the record to find that the noise created by the Holy Trinity Church rises to the level of a noise disturbance.

IN THE MATTER OF THE PLANNING COMMISSION'S DECISION IN FILE NO. 24-007 IT IS HEREBY ORDERED THAT THE APPLICATION IS APPROVED, SUBJECT TO THE FOLLOWING MODIFIED CONDITIONS OF APPROVAL:

Condition of Approval #1: The Zoning Compliance application shall be accompanied by a revised site plan showing all off-street parking spaces confined within the boundaries of the property. The two parking spaces in the City's right-of-way must be removed. This plan must include at least 39 parking spaces that are at least 8.5'x 19' to meet the city's minimum standards. This plan shall be reviewed and approved by the City's engineer for compliance with the Americans with Disabilities Act (ADA) and Architectural Graphic Standards. Additionally, this plan will be reviewed to ensure that proper fire access is provided. Zoning Compliance approval will not be issued until a revised site plan addressing Condition of Approval #1 is supplied to the Bandon Planning Department.

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Condition of Approval #4: The applicant's lighting plan submitted for zoning compliance shall be in substantial conformance with the type, material, and location of light poles proposed as part of this approval. The lights shall be on a motion sensor and dimmed to at least 50% when not in use and shall also be shielded so as to not cause shine, glare or light pollution falling onto adjacent properties. Maintaining shielding of the lights is the on-going responsibility of the property owner.

