

45165

Vol. 185 Page 1025

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of a Request for)	C.U.P. No. 60-84
CONDITIONAL USE PERMIT )	FINDINGS OF FACT, CONCLUSIONS
for )	OF LAW AND DECISION
LEROY R. BARKER and )	
CAROLYN C. BARKER )	

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on the 3rd day of January, 1985, at 1:30 p.m. in the Klamath County Commissioners Hearing Room. The hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The Planning Department was represented by Jonathan Chudnoff and the applicants appeared in person.

The following exhibits were marked, entered, and received into evidence and made a part of the record: Exhibits "A" through "H".

The Assistant Hearings Officer, after reviewing the evidence presented, makes the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT:

1. The applicants are proposing to establish a home occupation in an RS zone. The applicant, LEROY BARKER, is now a mechanic at Harvest Ford and would like to operate a two-bay auto and light truck repair shop behind his home.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

05 JAN 17 PM 3 06

1 A 30' x 40' three door garage has been completed at the rear  
2 of the property. Due to the size restrictions on home  
3 occupations, only two of the three spaces may be used in a  
4 commercial use.

5 2. The applicants are the owners of the subject  
6 property located at 2870 Homedale Road, Klamath Falls, Oregon,  
7 with a legal description of "North 82 feet of Lot 4, BAILEY  
8 TRACTS, Klamath County, Oregon."

9 3. The plan designation is Urban, the zone designa-  
10 tion is RS. Adjacent and/or surrounding zoning is RS and IH.

11 4. The property's physical characteristics are  
12 as follows: dimensions, 82' x 308.55', consisting of .58 acre.  
13 The shape is rectangular, vegetation consists of lawn, trees  
14 and residential landscaping, and the topography is level.  
15 General drainage consists of storm drains to Homedale Road.

16 5. Access to the property is off Homedale Road.

17 6. Sewer is provided by South Suburban Sanitary  
18 District, and water by the City of Klamath Falls. Utility  
19 districts serving the property are Pacific Power and Light  
20 Company, Pacific Northwest Bell, C.P. National and Enterprise  
21 Irrigation District. The fire district serving the property  
22 is County Fire District No. 1.

23 7. Klamath County has proposed seven (7) conditions  
24 to be placed on the operation of the facility which are  
25 as follows:

26 \* \* \* \* \*

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 A) The hours of operation be limited to 9 a.m.  
2 to 6 p.m., Monday through Saturday.

3 B) The applicants' back yard be enclosed by a  
4 six-foot high solid wood fence.

5 C) No wrecking or dismantling of vehicles  
6 may be conducted.

7 D) No wrecks or auto parts may be stored outside  
8 the shop.

9 E) No employee, other than LEROY BARKER, applicant,  
10 and members of his family, may use the facility.

11 F) The approval will be for one (1) year, subject  
12 to review and renewal at a public hearing at the end of the  
13 one year period of time.

14 G) Only passenger cars and pick-up trucks  
15 may be repaired.

16 3. No persons appeared in opposition to this condi-  
17 tional use permit with the exception of a letter received  
18 from a resident in the area objecting generally to commercial  
19 use in the residential area.

20 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

21 1. Klamath County Development Code Section 44.003 sets  
22 forth the criteria for consideration in the application of a  
23 conditional use permit:

24 A. That the use is conditionally permitted in the  
25 zone in which it is proposed.

26 B. That the location, size, design and operating  
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
-3-

characteristics of the proposed uses is in conformance with the Klamath County Comprehensive Plan.

C. That the location, size, design and operating characteristics of the proposed development will be compatible with, and will not adversely effect, the livability or appropriate development of abutting properties in the surrounding neighborhood. Consideration shall be given to the harmony in scale, bulk, and utilities; to harmful effects, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets and to other relevant impact of the development.

KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

1. The proposed use is conditionally permitted in the zone in which it is proposed.

2. The location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely effect, the livability and/or appropriate development of abutting properties in the surrounding neighborhood. In considering the location and operating characteristics of the proposed development, it appears that they will be compatible with, and will not have a significant adverse effect, on the appropriate development and use of abutting properties in the surrounding neighborhood.

3. In order to have full compliance with these criteria, conditions as set forth later herein are necessary.

\* \* \* \* \*

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 STATE-WIDE PLANNINGS GOALS AND REVIEW CRITERIA:

2 See Exhibit "AA" attached hereto and incorporated  
3 by this reference.

4 CONCLUSIONS OF LAW AND DECISION:

5 1. This request for a conditional use permit on the  
6 subject property meets all applicable Klamath County Development  
7 Code criteria and policies governing such, with the inclusion  
8 of the conditions as imposed herein.

9 2. This request for a conditional use permit is  
10 consistent with, and complies with, all applicable State-Wide  
11 Planning Goals and review criteria, subject to the conditions  
12 as set forth below:

13 A. That the applicant not erect any signs or  
14 other form of advertising for his business;

15 B. That the applicant keep the doors to the premises  
16 closed at all times and maintain an adequate system of venti-  
17 lation for the shop as required by federal, state and local  
18 building and safety codes;

19 C. That the hours of operation of the shop be  
20 limited to 9 a.m. to 5:30 p.m., week-days, and from 9:30 a.m.  
21 to 2 p.m. on Saturdays.

22 D. No wrecking or dismantling of vehicles will  
23 be performed on the property in any manner.

24 E. That no wrecks or auto parts of any type be  
25 stored, except inside the shop.

26 F. No employees shall work at the shop, other than

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 the applicant, LEROY BARKER, and members of his immediate  
2 family.


3 G. That the applicant shall only perform work  
4 on passenger cars and light pickup trucks.

5 H. The applicant shall only work on two vehicles  
6 at a time, in the confines of the garage. The applicant shall  
7 not allow more than two (2) customer cars to be parked outside  
8 the shop by those customers who are visiting the premises.

9 I. This Order shall be valid for a period of  
10 one (1) year at which time it shall be subject to review  
11 and renewal at public hearing.

12 NOW AND THEREFORE, the conditional use permit on  
13 the above mentioned property is hereby granted, subject to  
14 the conditions as set forth above.

15 DATED this 17 day of January, 1985.

16  
17   
18 JAMES R. UERLINGS  
19 Assistant Hearings Officer  
20  
21  
22  
23  
24  
25  
26

COMPREHENSIVE PLAN POLICIES AND STATE  
LAND USE GOALS 1 - 14

1031

GOAL NO. 1 - Citizen Involvement

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

1. "The County shall provide for continued citizen involvement opportunities after plan acknowledgement."

Goal Issues:

A public hearing on this matter has been set for January 3, 1984. Notice has been sent to neighboring property owners and concerned public agencies and published in the Herald and News.

GOAL NO. 2 - Land Use Planning

- ☐ Complies ☐ Does not comply  
☒ Complies with conditions  
☐ Not applicable

Article 46  
Major/Minor Partition  
Section 46.003 Review Criteria

Relevant Policies:

	Complies	Does not Comply	N.A.
A -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Goal Issues:

The applicant must show compliance with the criteria of Section 44.003. Because the property is in a residential area, special conditions are needed as outlined on the previous page.

GOAL NO. 3 - Agricultural Lands

- ☐ Complies ☐ Does not Comply  
☐ Complies with conditions  
☒ Not applicable

1032

Relevant Policies:

Goal Issues:

The property is in the Klamath Falls urbanized area. No agricultural land would be affected by this proposal.

GOAL NO. 4 - Forest Lands

- ☐ Complies ☐ Does not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

Goal Issues:

The property is in the Klamath Falls urbanized area. The proposal would not affect any forest land.



GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

1033

Relevant Policies:

Goal Issues:

There are no inventoried Goal 5 resources on or adjacent to this property.

GOAL NO. 6 - Air Water and Land Resource Quality

☐ Complies ☐ Does not Comply

☒ Complies with Conditions

☐ Not applicable

Relevant Policies:

1. "The County shall support efforts to maintain and improve the quality of air resources."
9. "Consideration shall be given to locating noise-sensitive activities away from noise generators."

Goal Issues:

The proposed occupation would add some noise and fumes to the area. The garage is about 50 feet from the nearest home, and the limits placed on a home occupation would allow only minor effects on the area.

GOAL NO. 7 - Natural Disaster and Hazards Area

1034

- ☐ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

Goal Issues:

No natural hazards are known to affect the property or the surrounding area.

GOAL NO. 8 - Recreation Needs

- ☐ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

Goal Issues:

The proposed conditional use permit would not affect the need or availability of recreational facilities.

GOAL NO. 9 - County Economy

☒ Complies ☐ Does not Comply

1035

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

9. "The County shall encourage plans and methods that emphasize expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional development."

Goal Issues:

The proposed C.U.P. would allow a small business (one employee) to be started. At the present time, Mr. Barker is a mechanic working for Harvest Ford.

GOAL NO. 10 - Housing

☐ Complies ☐ Does not Comply

☒ Complies with conditions

☐ Not applicable

Relevant Policies:

Goal Issues:

The surrounding area is mainly residential, and the applicant must keep his business compatible with the neighborhood.

The primary use of the property must remain residential.

Page - 10 -  
GOAL NO. 11 - Public Facilities and Services

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

1036

Relevant Policies:

12. "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or are to be provided concurrently with defined levels of development within urban and rural areas."

Goal Issues:

Water, sewer, electrical, telephone, and gas service are available to the property. The area is in Fire District 1, with the Gettle Street fire station being about one mile away. There is a fire hydrant at the property's northeast corner.

GOAL NO. 12 - Transportation

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Goal Issues:

The property fronts on Homedale Road, a three-lane county road. The road is adequate to carry the additional traffic generated by the proposed business.

There is room for adequate off-street parking on the property.

GOAL NO. 13 - Energy Conservation

- ☐ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☒ Not applicable

1037

Relevant Policies:

Goal Issues:

No effects on energy use or conservation are apparent as a result of this permit.

GOAL NO. 14 - Urbanization

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Goal Issues:

The property is within the Klamath Falls urbanized area and is supplied with all necessary urban facilities and services.

Ret: Commissioners Journal

Exhibit "AA", Page 7.

STATE OF OREGON: COUNTY OF KLAMATH:ss  
I hereby certify that the within instrument was received and filed for  
record on the 17th day of January A.D., 1985 at 3:06 o'clock P M,  
and duly recorded in Vol M85, of Deeds on page 1025.

Fee: \$ None

EVELYN BIEHN, COUNTY CLERK

by: Pam Smith, Deputy