

51008

1 In the Matter of Request for
2 Conditional Use Permit No. 21-85
3 for Brian Southby, Applicant

) Klamath County Planning
) Findings of Fact and Order

4 A hearing was held on this matter on June 6, 1985, pursuant
5 to notice given in conformity with Ordinance No. 45.2, Klamath
6 County, before the Klamath County Hearings Officer, Jim Spindor.
7 The applicant was present. The Klamath County Planning Department
8 was represented by Jonathan Chudnoff. The Hearings Reporter was
9 Karen Burg.

10 Evidence was presented on behalf of the Department and on
11 behalf of the applicant. There was one adjacent property owner
12 present.

13 The following exhibits were offered, received, and made a
14 part of the record:

15 Klamath County Exhibit A, Staff Report
16 Klamath County Exhibit B, Plot Plan
17 Klamath County Exhibit C, Assessor's Map
18 Klamath County Exhibit D, Letter from Charles Daniels
19 Klamath County Exhibit E, City Planner's Comments
20 Klamath County Exhibit F, Letter from Public Works Director
21 Klamath County Exhibit G, Photo
22 Klamath County Exhibit H, Letter from James and Sandy Spears
23 Klamath County Exhibit I, Letter from Forest and Elise Spears
24 Klamath County Exhibit J, Letter from Kathryn Hawkins
25 Klamath County Exhibit K, Property Sketch
26 Klamath County Exhibit L, Building Diagram

27 The hearing was then closed, and based upon the evidence
28 submitted at the hearing, the Hearings Officer made the following

11 JUL 12 1985

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1 Conclusions of Law:

2 CONCLUSIONS OF LAW:

3 1. The proposed use is conditionally permitted in the zone
4 within which it is proposed to be located.

5 2. The location, size, design and operating characteristics
6 of the proposed use are in conformance with the Klamath County
7 Comprehensive Plan.

8 3. The location, size, design and operating characteristics
9 of the proposed use will be compatible with and will not have a
10 significant adverse affect on the appropriate development and
11 use of abutting property in the surrounding neighborhood.

12 4. The granting of this permit is consistent with the goals
13 of the LCDC.

14 5. The requirements of Section 85.003 with regard to home
15 occupations have been met in that:

16 a. The occupation will be conducted entirely within
17 the permitted accessory building.

18 b. The occupation is not the primary use of the property,
19 and it is operated by a resident of the property.

20 c. The business will not employ more than five full or
21 part-time persons.

22 d. No equipment will be used in the occupation except
23 such as may be used for purely domestic or household purposes.

24 e. The area of the accessory building used for the
25 home occupation does not exceed 50 percent of the floor area of
26 the residence and attached garage.

27 f. The occupation will not require internal or external
28 alterations, or involve construction features that would change

1 the principal character or use of the dwelling involved.

2 g. Only one sign shall be used on the property; said
3 sign shall not exceed six square feet in area and shall not be
4 lighted at night.

5 h. There is adequate off-street parking which would be
6 maintained by the applicant.

7 i. There will be no storage of materials outside of the
8 accessory building.

9 6. This Conditional Use Permit is granted subject to the
10 following conditions:

11 CONDITIONS:

12 a. The hours of the said occupation shall be limited
13 from 9:00 a.m. until 5:00 p.m. on weekdays, and from 9:30 a.m.
14 until 2:00 p.m. on Saturdays.

15 b. Only cars and pickup trucks shall be repaired, and
16 nothing larger.

17 c. All work shall be done inside the accessory building.

18 d. No auto parts or any other materials relating to
19 the occupation shall be stored outside of the accessory building.

20 e. There shall be no wrecking or dismantling of vehicles
21 on the property.

22 f. No employee shall work at the shop other than the
23 property owner and members of his family.

24 g. No body work shall be done on the property.

25 h. No excessive noise shall result from this occupation.

26 FINDINGS OF FACT:

27 The requested use has been granted based on the following

28 Findings of Fact:

1 1. This request is for a Conditional Use Permit for a home
2 occupation in the Suburban Residential zone. The applicant has
3 a 30 foot by 40 foot shop which is being used for automobile
4 repair. This shop was built in 1980 and the business began opera-
5 ting early in 1985. Only cars and small pickup trucks are to be
6 worked on.

7 2. The Hearings Officer visited the property. Homedale
8 Street is a quiet tree-lined street in this area. There is one
9 other home occupation on this section of Homedale, this being a
10 refrigeration and appliance repair shop, approximately one block
11 from Shasta Way. The accessory building which the applicant plans
12 to use is situated so it could possibly disturb only two resi-
13 dences. One is the applicant's property and is owned and rented
14 to others by him, and the other is Mr. Nelson's property. The
15 above-mentioned conditions have been imposed because of the loca-
16 tion of these two residences.

17 3. The proposed home occupation could add some noise and
18 fumes to the area. The garage is over 50 feet from the nearest
19 home, and the limits placed on home occupations would allow only
20 minor affects on the area.

21 4. The property fronts on a paved County road (Homedale).
22 There is adequate off-street parking on the property.

23 5. Mr. Nelson, whose residence can be seen on Exhibit C,
24 objected to allowing this application, due to increased traffic,
25 increased taxes, and the fact that he wishes to reside in a
26 residential area. No other objections were heard, and the appli-
27 cant stated that all neighbors to whom he had spoken were favor-
28 able. See Exhibits H and I.

1 6. Due to the small nature of the occupation and its location
 2 in the accessory building, it will fit in with the surrounding
 3 neighborhood so long as the above-mentioned conditions are followed.

4 7. The residence on the property has an attached garage,
 5 and the area of the shop to be used for the occupation does not
 6 exceed 50 percent of the floor area of said residence and attached
 7 garage.

8 The Hearings Officer, based on the foregoing Findings of
 9 Fact, accordingly orders as follows:

10 That real property described as
 11 "being generally located at 1103 Homedale Road, and
 12 more particularly described as a portion of Lots 72
 and 73 of Fair Acres, No. 1, Klamath County, Oregon,"
 13 is hereby granted a Conditional Use Permit with conditions in
 14 accordance with the terms of the Klamath County Zoning Ordinance
 15 No. 45.2, and, henceforth, will be allowed a home occupation in
 16 the RS (Suburban Residential) zone.

17 Entered at Klamath Falls, Oregon, this 12th Day of July,
 18 1985.

19
 20 KLAMATH COUNTY HEARINGS DIVISION

21 *Bob Spudi*

22 Hearings Officer

23 STATE OF OREGON: COUNTY OF KLAMATH:ss

I hereby certify that the within instrument was received and filed for
 record on the 12th day of July A.D., 1985 at 3:11 o'clock P M,
 and duly recorded in Vol M85, of Deeds on page 11030.

24 Fee: \$ None

EVELYN BIEHN, COUNTY CLERK

by: *Bernetha Sheloch*, Deputy