

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for)
Conditional Use Permit 7-86) Klamath County Planning
for Richard and Christine Stiles) Findings of Fact and Order

A hearing was held on this matter on March 13, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Brad Aspell. The applicant was present. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercage.

Evidence was presented on behalf of the Department and on behalf of the applicant. There were no adjacent property owners present.

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

Klamath County Exhibit A, Staff Report
Klamath County Exhibit B, Plot Plan
Klamath County Exhibit C, Assessor's Map
Klamath County Exhibit D, Pictures

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

Findings of Fact:

FINDINGS OF FACT:

1. Applicants are the owners of real property located at 2975 Summers Lane, Klamath Falls, Oregon, specifically described as a portion of the SW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 2, Township 39 South,

1 Range 9 East Willamette Meridian, consisting of Tax Account
2 No. 3908-02CC-4000. The subject property is approximately
3 .40 acres and is located on the northeast corner of Summers Lane
4 and the entrance to Mazama High School. The property is
5 designated Residential in the Klamath County Comprehensive Land
6 Use Plan and carries a Zone designation of RS (Suburban
7 Residential). The property is rectangular with dimensions of
8 100 by 208 feet. Topography is level with general drainage
9 being from the east to the west. The subject property is
10 improved by a single family frame dwelling of approximately
11 1,500 feet. Vegetation consists of normal urban landscaping.
12 To the rear of the property are a carport, garage and storage
13 buildings.

14 2. Applicant seeks a Conditional Use Permit for a home
15 occupation under Klamath County Land Development Code, Sections
16 51.005, and Land Development Code, Sections 85.002 et seq.
17 and Land Development Code, Section 44.003.

18 3. Access to the property is gained off Summers Lane. A
19 30 foot wide buffer strip exists between the subject property
20 and Mazama School to the south. Surrounding the property on
21 Summers Lane are residential single family dwellings. All
22 properties in the immediate vicinity save and except Mazama
23 High School are developed with residential single family
24 dwellings. The property is served by water from the City of
25 Klamath Falls, sewer service from the South Suburban Sanitary
26 District, electricity provided by Pacific Power & Light Company,
27 natural gas by CP National, fire suppression by Klamath County
28 Fire District No. 1. The property is located within the

1 attendance area of the Klamath Falls School
2 District.

3 4. The property is located in the Klamath Falls Urban
4 Growth Boundary. No SCS soils classifications or timbersite
5 productivity ratings are available.

6 5. Applicant proposes to operate a small business in the
7 living room of the residence known as "Diana's Baby Boutique".
8 This business was operated until recently in a commercial
9 establishment on South 6th Street, but the owner seeks to move
10 it due to her pregnancy and imminent delivery of a child, and the
11 fact that the business is a cottage industry.

12 6. In review of permit requirements of the Klamath County
13 Land Development Code, Section 85.003, the Hearings Officer
14 finds as follows:

15 A. The occupation will be conducted entirely within
16 the residential dwelling, to wit the living room.

17 B. That the occupation is not the primary use of the
18 dwelling and will be operated by the natural resident of
19 the subject property.

20 C. That the business will not employ more than five
21 full or part-time persons. In this regard the Hearings
22 Officer makes the following finding: The business should
23 employ no more than one full-time person or two half-time
24 persons other than one of the applicants.

25 D. No equipment will be used on the premises which
26 cannot be used for household purposes.

27 E. That no more than 25 percent of the subject dwelling
28 shall be used for the home occupation. In this regard the

1 Hearings Officer limits the occupation to the living room.

2 F. No accessory building will be constructed or
3 permitted to be used in home occupation.

4 G. That the occupation shall not require internal or
5 external additions or construction.

6 H. That the applicant shall comply with the sign
7 requirements of the Code limiting the sign to not more than
8 six square feet, which shall not be lighted at night.

9 I. That adequate off-street parking shall be maintained
10 by the applicant. The applicant shall, in addition,
11 designate two off-street parking spaces which shall be
12 designated by a small sign reading "Customer Parking Only"
13 which shall be visible to customers.

14 7. Despite the recommendation for approval of the Klamath
15 County Planning Department Staff, the Hearings Officer has
16 substantial concerns about granting this application such that
17 it still comply with Land Development Code, Section 44.003.
18 The Hearings Officer finds that retail sales from a residential
19 dwelling are marginally a permitted use as a home occupation.
20 It being the opinion of the Hearings Officer that home
21 occupations are generally classified as service type business or
22 industries in which the concept of customers coming to one's
23 home or residence is secondary or incidental to the service,
24 work or activity performed by the resident.

25 Accordingly, the Hearings Officer grants the application as
26 a limited home occupation subject to the following additional
27 conditions:

28 A. That this occupation shall expire automatically

1 two years from the date of issuance, and shall not be
2 subject to renewal except for extraordinary change in the
3 character of the neighborhood, or change in the nature of
4 applicant's requested home occupation.

5 B. That the business will not employ more than five
6 full or part-time persons. In this regard the Hearings
7 Officer makes the following finding: The business should
8 employ no more than one full-time person or two half-time
9 persons other than one of the applicants.

10 C. That adequate off-street parking shall be maintained
11 by the applicant. The applicant shall, in addition,
12 designate two off-street parking spaces which shall be
13 designated by a small sign reading "Customer Parking Only"
14 which shall be visible to customers.

15 8. The Klamath County Hearings Officer finds in conformance
16 with the relevant Klamath County Land Development policies the
17 following:

18 Goal 1 (Citizen Involvement) has been met as notice has been
19 given to adjacent property owners, interested public agencies,
20 published in the Herald and News, and an opportunity of public
21 input and comment has been afforded by Klamath County.

22 Goal 2 (Land Use Planning) has been met as shown in the
23 Findings of Fact and Conclusions which follow.

24 The following goals do not apply to this application:

25 Goal 3 (Agricultural lands), Goal 4 (Forest Lands), Goal 5
26 (Open Spaces, Scenic, Historic & Natural Resources Areas),
27 Goal 6 (Air, Water and Land Resource Quality), Goal 7 (Natural
28 Disasters and Hazards), Goal 8 (Recreation Needs).

1 Goal 9 (Economy of the State) has been met in that it is a
2 policy of Klamath County Land Development Code to foster and
3 encourage cottage industries to diversify local economy.
4 Permitting a start up time for a small business meets this goal.

5 Goal 10 (Housing) has been met in that available housing
6 has not been taken out of the market by granting of this
7 application.

8 Goal 11 (Public Facilities and Services) has been met in
9 that no additional public facilities or services other than
10 those existing on the subject property would be needed for this
11 Conditional Use Permit. (Public facilities and services presently
12 available consists of water service, sewer service, electrical
13 and natural gas service and telephone service. In addition,
14 the fire protection is provided to the subject property and it
15 is within the attendance area of the Klamath Falls School
16 District.

17 Goal 12 (Transportation) has been met. The property fronts
18 Summers Lane, a major County arterial sufficient to carry the
19 additional traffic which might be generated by this use.
20 Additionally the property provides adequate off-street parking
21 so as to minimize traffic congestion on Summers Lane.

22 Goal 13 (Energy Conservation) does not apply.

23 Goal 14 (Urbanization) does not apply. The property is
24 within the Urban Growth Boundaries of the City of Klamath Falls.

25 9. The Hearings Officer finds that the following Review
26 Criteria have likewise been met.

27 A. The use is conditionally permitted in the zone
28 in which it is proposed to be located as a home occupation.

1 B. That the location, size, design and operating
2 characteristics of the proposed use are in conformance with
3 the Klamath County Comprehensive Plan, shown above.

4 C. That the location, size, design and operating
5 characteristics of the proposed use are in conformance with
6 the Klamath County Comprehensive Plan, shown above.

7 D. That the location, size, design, and operating
8 characteristics of the proposed development will be
9 compatible with and will not have significant adverse
10 effects on the appropriate development and use of abutting
11 properties and the surrounding neighborhood subject to the
12 conditions set forth below.

13 Based upon the foregoing Findings of Fact, the Hearings
14 Officer makes the following Conclusions of Law:
15 CONCLUSIONS OF LAW:

16 1. That the use is conditionally permitted in the zone in
17 which it is proposed to be located.

18 2. That the location, size, design and operating charac-
19 teristics of the proposed use are in conformance with the Klamath
20 County Comprehensive Plan.

21 3. That the location, size, design, and operating chara-
22 teristics of the proposed development will be compatible with
23 and will not have significant adverse effects on the appropriate
24 development and use of abutting properties and the surrounding
25 neighborhood. Consideration shall be given to harmony in scale;
26 bulk, coverage, and density; to the availability of civic
27 facilities and utilities; to harmful effects, if any, upon
28 desirable neighborhood characteristics and livability; to the

1 generation of traffic and the capacity of surrounding streets;
2 and to any other relevant impact of the development.

3 4. Subject to the following conditions:

4 A. That the applicant shall meet all of the conditions
5 in Section 85.003(b) as set forth above.

6 B. That the applicants shall employ no more than one
7 full-time employee or two part-time employees, besides one
8 of the applicants.

9 C. That two off-street parking spaces be created and
10 marked "Customer Parking Only".

11 D. That, except as set forth in Section 85.005(b) the
12 conditions of a limited home occupation should be granted.

13 E. That this application shall continue for two (2)
14 years only as set forth above.

15 The Hearings Officer, based on the foregoing, accordingly
16 orders as follows:

17 That real property described as

18 "Being generally located on the northeast corner of
19 Summers Lane and Hilyard Avenue, at 2975 Summers Lane,
20 and more particularly described as a portion of the
SW $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 2, Township 39 South, Range 9 East,
Klamath County, Oregon,"

21 is hereby conditionally granted a Conditional Use Permit in
22 accordance with the terms of the Klamath County Zoning Ordinance

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No. 45.2, and, henceforth, will be allowed a home occupation
in the RS (Suburban Residential) zone.

Entered at Klamath Falls, Oregon, this 1st Day of
May, 1986.

KLAMATH COUNTY HEARINGS DIVISION

Bradford J. Aspell
Bradford J. Aspell
Hearings Officer

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 1st day
of May, A.D. 19 86 at 4:32 o'clock P. M., and duly recorded in Vol. M86
of _____ of Deeds on Page 7568

FEE NONE
Return: Commissioner's Journal

Evelyn Biehm, County Clerk
By *[Signature]*