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Vol. M26 Pag 12140

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for)
Conditional Use Permit 19-86 for) Klamath County Planning
James, Deborah, and Gean Shanklin) Findings of Fact and Order

A hearing was held on this matter on April 17, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Jim Spindor. The applicant was represented by Gean Shanklin. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercajt.

Evidence was presented on behalf of the applicant and on behalf of the Department. There was one adjacent property owner 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, Letter from Public Works Department
- Klamath County Exhibit E, Pictures
- Klamath County Exhibit F, Letter from City of Klamath Falls
- Klamath County Exhibit G, Letter from Adjacent property owner

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

Conclusions of Law:

CONCLUSIONS OF LAW/CHAIN SAW SHOP:

1. The proposed use is conditionally permitted in the zone

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1 within which it is proposed to be located.

2 2. The location, design, and operating characteristics of
3 the proposed use are not in conformance with the Klamath County
4 Comprehensive Plan.

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

9 FINDINGS OF FACT/CHAIN SAW SHOP:

10 The requested use has been denied based on the following
11 Findings of Fact:

12 1. This request is for a chain saw repair shop inside an
13 outbuilding on the property.

14 2. The property is located on the corner of Shasta Way and
15 Hope Street. The property is in the Suburban Residential zone
16 and is approximately 114 feet by 150 feet.

17 3. Notice of this hearing was sent to the surrounding
18 property owners, to concerned public agencies, and published in
19 the Herald & News, the Klamath Falls newspaper.

20 4. In reviewing the criteria of Section 85.003 of the
21 Klamath County Land Development Code, the rule that no equipment
22 is to be used in a home occupation such as may be used for purely
23 domestic or household purposed has not been met. The applicant
24 gave testimony that the business would use a machine with a motor
25 and a stone to sharpen the chains, and that a timber faller could
26 very well have one of these at home. However, it seems clear
27 that such a machine is not something a person would use for
28 "purely domestic or household purposes".

1 5. There was objection to the noise and fumes by a Mrs.
2 Herrera, a neighbor who suggested the limiting of hours of
3 operation. There was also objection by letter from Mr. and Mrs.
4 Kunze, who live nearby, with regard to the noise. See Exhibit "G"
5 herein.

6 6. The noise and fumes which would be generated by such an
7 occupation is not compatible with the neighborhood setting of
8 this property and to allow such an occupation would adversely
9 affect the immediate neighborhood.

10 CONCLUSIONS OF LAW/SEAMSTRESS SHOP:

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

13 2. The location, size, design, and operating characteristics
14 of the proposed use are in conformance with the Klamath County
15 Comprehensive Plan.

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

20 4. The granting of this Conditional Use Permit is consistent
21 with the goals of the L.C.D.C.

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

24 a. The occupation will be conducted entirely within a
25 permitted accessory building;

26 b. The occupation will not be the primary use and it
27 will be operated by the residents of the property;

28 c. The business will employ only residents of the

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1 property;

2 d. No equipment will be used except such as may be used
3 for purely domestic or household purposes;

4 e. The area of the accessory building used for the home
5 occupation will be no more than 50 percent of the floor
6 area of the residence;

7 f. The occupation will not require internal or external
8 alterations or involved construction features to change the
9 principle character or use of the dwelling involved;

10 g. Only one sign shall be permitted on the property
11 and said sign shall not exceed six square feet in area and
12 shall not be lighted at night;

13 h. There is adequate off-street parking which shall be
14 maintained by the applicants; and

15 i. There will be storage of materials out of doors.

16 FINDINGS OF FACT/SEAMSTRESS SHOP:

17 The requested use has been granted based on the following
18 Findings of Fact:

19 1. This request is for a home occupation of a seamstress
20 shop to be housed in an outbuilding on the property.

21 2. This property is located on the corner of Shasta Way
22 and Hope Street. The property is in the Suburban Residential
23 zone, and is approximately 114 feet by 150 feet.

24 3. Notice of this hearing was sent to the surrounding
25 property owners, to concerned public agencies, and published in
26 the Herald & News, the Klamath Falls newspaper.

27 4. No one testified in opposition to the granting of this
28 permit, and there was no evidence presented that there would be

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1 any adverse affects on the appropriate development and use of
 2 abutting property owners and the surrounding area.

3 The request for the wood sales yard on the property bearing
 4 the same number, C.U.P. 19-86, was withdrawn by the applicants.

5 The Hearings Officer, based on the foregoing, accordingly
 6 orders as follows:

7 That real property described as

8 "Being generally located on the southeast corner of
 9 Shasta Way and Hope Street, and more particularly
 10 described as Lot 66, Pleasant Home Tracts, Klamath
 County, Oregon,"

11 is hereby denied the chain saw repair shop portion of the
 12 Conditional Use Permit, and granted the seamstress shop portion
 13 of the Conditional Use Permit in accordance with the terms of
 14 the Klamath County Zoning Ordinance No. 45.2, and, henceforth,
 15 will be allowed a seamstress shop in the RS (Suburban Residential)
 16 zone.

17 Entered at Klamath Falls, Oregon, this 10th Day of July,
 18 1986.

19 KLAMATH COUNTY HEARINGS DIVISION

20 *Jim Spindor*
 21 Jim Spindor, Hearings Officer
 22

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 10th day
 of July A.D., 19 86 at 4:39 o'clock P. M., and duly recorded in Vol. M86
 of Deeds on Page 12140.

FEE None

Evelyn Biehn County Clerk
 By *Bernetha A. Hetch*

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