

71058

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for )  
 Conditional Use Permit 50-86 for ) Klamath County Planning  
 Phillip S. Burton ) Findings of Fact and Order

A hearing was held on this matter on January 8, 1987, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Bradford J. Aspell. The applicant was present. The Klamath County Planning Department was represented by Carl Shuck. The Hearings Reporter was Janet Libercajt.

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. Applicant is the owner of certain real property located at 4809 Hilyard Street, Klamath Falls, Oregon 97603, comprising of a portion of Lot 22, Gienger Home Tracts, situate in Sect. 2CD,

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Township 39 South, Range 9 E.W.M., Klamath County, Oregon,  
1 carrying tax account number 3909-02CD-5800. The property is  
2 located on the north side of Hilyard Street, approximately 245  
3 feet west of Wiard Street and east of Hope Street, with the rear  
4 of the property abutting the Oregon, California and Eastern  
5 Railroad right-of-way, being bounded on either side by a residence  
6 owned by Forest Products Credit Union to the west and residence  
7 owned by McDonald to the east. The property is trapezoidal in  
8 shape with dimensions approximately 122 feet fronting on Hilyard  
9 Street and approximately 259 feet deep at its shallowest depth.  
10 The property comprises of approximately .81 acres.

11 2. The property is designated as urban under the Klamath  
12 County Comprehensive Plan and carries a zone designation of  
13 suburban residential (RS). The property is located within the  
14 Klamath Falls urban growth boundary. Topography is relatively  
15 flat with undefined drainage. Vegetation consists of trees,  
16 shrubs and lawns common to normal residential landscaping. Access  
17 to the property is off of Hilyard Street a paved road improved to  
18 County road standards. The hearings officer finds that there is  
19 no SCS soils classification nor timbersite productivity rating on  
20 the subject real property.

21 3. The hearings officer finds that the real properties  
22 surrounding the subject site include, a mobile home and several  
23 permanent structures. The property in question at .81 acres is  
24 substantially larger than adjacent properties which generally have  
25 less frontage on Hilyard Street and are not nearly as deep.  
26

1 4. Water is provided by the City of Klamath Falls, sewer  
2 disposal by South Suburban Sanitary District, fire protection by  
3 Fire Protection District No. 1, and electricity by Pacific Power &  
4 Light. The property lies within the attendance area of Klamath  
5 County School District No. 1.

6 5. Applicant seeks a conditional use permit in order to run  
7 a taxidermy shop out of an existing garage and shop building on  
8 the rear of the property.

9 6. Applicable provisions of the Klamath County Land  
10 Development Code include LDC 51.005(D)(3) (RS Zone); LDC Section  
11 44.003 (Conditional Use Permit Review Criteria) and Section 85.003  
12 (Home Occupations).

13 7. The hearings officer finds pursuant to Section 85.003(B):

14 A. That the taxidermy activities will be conducted entirely  
15 within the existing permitted accessory building comprising of  
16 garage and shop located generally behind the principal dwelling.

17 B. That the occupation is not the primary use and will be  
18 operated by a resident of the property. The hearings officer  
19 specifically finds that applicant shall employ no other persons.

20 C. The business will not employ any full time employees, and  
21 will primarily be for the homeowner to provide part-time winter  
22 work.

23 D. No equipment will be used on the property which would  
24 generate noise, other than conceivably an air compressor which  
25 will be suitably contained and or muffled so as not to be audible  
26 from off of the property.

1 E. That the occupation will not be conducted within the  
2 residence such that 25 percent floor area limitation is not  
3 applicable.

4 F. That the accessory building does not exceed 50 percent of  
5 the floor area of the residence.

6 G. The hearings officer specifically finds that the  
7 occupation shall not require internal or exterior alterations or  
8 involve construction features which change the principal character  
9 or use of the property.

10 H. The hearings officer further finds that the applicant  
11 shall comply with the sign requirements, that no sign shall be  
12 erected which exceeds 6 square feet in area and shall not be  
13 lighted at night.

14 8. The hearings officer finds that the property has space  
15 for adequate off-street parking. In this regard the hearings  
16 officer specifically requires that the applicant maintain  
17 gravelled or paved parking sufficient for 1 additional car. If  
18 applicant elects to erect a sign advertising his taxidermy  
19 services, he shall further be required to indicate on the sign  
20 "Parking in rear" and shall suitably erect a small sign reserving  
21 a parking space for taxidermy shop patrons only.

22 9. LDC Section 44.003(A) requires a finding that the use be  
23 permitted in the appropriate zone. LDC Section 85.002 states that  
24 home occupation shall be conditionally permitted in any  
25 residential zone. This section has been met.

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1 10. The location, size, design and operating characteristics  
2 of the proposed use must be in conformance with the Klamath County  
3 Comprehensive Plan. In this regard the hearings officer  
4 specifically finds as follows:

5 A. Goal 1 (Citizen Involvement) has been met as notice has  
6 been given to adjacent property owners, affected public agencies,  
7 by mailing of notice and by publication in the Herald & News, a  
8 newspaper of public circulation, and a hearing has been held. The  
9 hearings officer specifically finds that no person has appeared in  
10 opposition to the application. The hearings officer finds that  
11 Citizen Involvement has been met.

12 B. Goal 2 (Land Use Planning), has been met. A public  
13 hearing has been held and the application has been found  
14 consistent with the policies and procedures of the Klamath County  
15 Land Development Code as described herein.

16 C. Goal 9 (Economy of the State) will be met in that  
17 additional employment opportunities will be created, goods and  
18 services purchased from local businesses.

19 D. Goal 11 (Public Facilities and Services) has been met in  
20 that those services needed for such use are in place.

21 E. Goal 12 (Transportation) has been met in that the  
22 property has access off Hilyard Avenue which can handle the  
23 traffic that would be generated from the proposed use and with the  
24 provision of parking little if any congestion should arise on the  
25 subject property.  
26

1 F. The following goals do not directly apply to this  
2 application:

3 Goal 3 (Agricultural Lands); Goal 4 (Forest Lands); Goal 5  
4 (Open Spaces, Scenic, Historic and Natural Resource Areas); Goal  
5 6; (Air, Water and Land Resource Quality); Goal 7 (Natural  
6 Disaster and Hazard Area); Goal 8 (Recreation Needs); Goal 10  
7 (Housing); Goal 13 (Energy Conservation); and Goal 14  
8 (Urbanization) do not directly apply nor affect this application.

9 11. The location, size, design and operating characteristics  
10 of the proposed development must be compatible with and not have  
11 - significant adverse affects upon the appropriate development and  
12 use of abutting properties in the surrounding neighborhood. The  
13 hearings officer finds that no neighbors appears either at the  
14 hearing or in writing to question or contest the granting of this  
15 conditional use permit. The hearings officer concludes that  
16 location, size, design and operating characteristics of the  
17 proposed use will be compatible with and will not have a  
18 significant adverse affect upon the appropriate development and  
19 use of abutting property in the surrounding neighborhood based  
20 upon the following conditions:

21 A. That the application shall comply with the requirements  
22 of LDC Section 85.003(b) 1-10.

23 B. That the applicant shall maintain off-street parking for  
24 a minimum of 1 car belonging to patrons which space shall not be  
25 used, occupied or otherwise encroached upon by the applicant, in  
26 the applicant's use of the property. Further if applicant shall



1 elect to erect a sign on the front of the premises advertising the  
2 taxidermy shop or business, applicant shall further be required to  
3 note "Parking in Rear" on the sign and shall properly assign 1  
4 parking space as reserved for patrons of taxidermy shop.

5 C. That the applicant shall occupy and use the only in  
6 conjunction with his license as a taxidermist.

7 D. That applicant shall maintain safe and sanitary  
8 conditions at all times, shall comply with all laws and  
9 regulations regarding the disposal of waste, shall maintain the  
10 property in a clean and orderly fashion, shall submit to Health  
11 Department standards and inspections and shall maintain separate  
12 disposal containers for all waste generated thereon.

13 E. That upon any substantial alterations, modifications or  
14 improvements to the existing accessory building requiring the  
15 approval of building permit or plans, that the applicant shall  
16 submit the same to the Planning Director and shall, providing the  
17 change as specified therein, does not substantially modify or  
18 alter the existing structure or the size thereof, approve the  
19 application, otherwise the matter shall be set on for further  
20 hearing before the Klamath County Hearings Officer.

21 Based upon the above, this application is found consistent  
22 with the Klamath County Comprehensive Plan.

23 CONCLUSIONS OF LAW

24 1. That the use is conditionally permitted in the zone in  
25 which it is proposed to be located.  
26

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

3. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not have significant adverse effects on the appropriate development and use of abutting properties and the surrounding neighborhood.

4. The granting of this conditional use permit is consistent with the goals of the Land Conservation and Development Commission.

5. That the location, size, design and operating characteristics of the proposed use will be compatible with and shall not have significant adverse effects on the appropriate use and development of adjacent properties, pursuant to the following conditions:

A. That the application shall comply with the requirements of LDC Section 85.003(b) 1-10.

B. That the applicant shall maintain off-street parking for a minimum of 1 car belonging to patrons which space shall not be used, occupied or otherwise encroached upon by the applicant, in the applicant's use of the property. Further if applicant shall elect to erect a sign on the front of the premises advertising the taxidermy shop or business, applicant shall further be required to note "Parking in Rear" on the sign and shall properly assign 1 parking space as reserved for patrons of taxidermy shop.



1 C. That the applicant shall occupy and use the only in  
2 conjunction with his license as a taxidermist.

3 D. That applicant shall maintain safe and sanitary  
4 conditions at all times, shall comply with all laws and  
5 regulations regarding the disposal of waste, shall maintain the  
6 property in a clean and orderly fashion, shall submit to Health  
7 Department standards and inspections and shall maintain separate  
8 disposal containers for all waste generated thereon.

9 E. That upon any substantial alterations, modifications or  
10 improvements to the existing accessory building requiring the  
11 approval of building permit or plans, that the applicant shall  
12 submit the same to the Planning Director and shall, providing the  
13 change is specified therein, do not substantially modify or alter  
14 the existing structure or the size thereof, approve the  
15 application, otherwise the matter shall be set on for further  
16 hearing before the Klamath County Hearings Officer.

17 Therefore the hearings officer based upon the foregoing  
18 findings of fact and conclusions of law accordingly orders as  
19 follows:

20 That the real property described as:

21 "comprising of a portion of Lot 22 Gienger Home Tracts,  
22 situate in Section 2CD, Township 39 South, Range 9 E.W.M.,  
23 Klamath County, Oregon,"

24 is hereby granted the conditional use permit and home  
25 occupation with conditions described above.  
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Entered Klamath Falls, Oregon this 7 day of February, 1987.

KLAMATH COUNTY HEARINGS OFFICER

Bradford J. Aspell  
BRADFORD J. ASPELL

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of February A.D., 19 87 at 10:18 o'clock A M., and duly recorded in Vol. M87 day of Deeds on Page 1764

FEE NO FEE  
Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By Sam Smith

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