

71059

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

1	In the Matter of Request for)	
2	Conditional Use Permit No. 43-86)	
3	(Home Occupation) for)	Klamath County Planning
4	LLOYD COGLEY and SUZANNE COGLEY,)	Findings of Fact & Order
5	Applicants.)	

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8 A hearing was held on this matter the 6th day of November,
9 1986, pursuant to notice given in conformity with Ordinance No.
10 45.2, Klamath County, before the Klamath County Hearings Officer,
11 Brad Aspell. The applicants were present, Klamath County Planning
12 Department was represented by Carl Shuck and the Hearings Reporter
13 was Janet Libercajt.

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

16 Klamath County Exhibit A, Staff Report
17 Klamath County Exhibit B, Plat Plan
18 Klamath County Exhibit C, Assessor's Map
19 Klamath County Exhibit D, Photos

20 The hearings officer being fully advised in the facts and
21 issues of law, makes the following Findings of Fact:

22 FINDINGS OF FACT

23 1. Applicants are the owners of certain real property
24 located at 6210 Cherry Way, Klamath Falls, Oregon 97603, more
25 particularly known as Lots 10 and 11, Moyina Heights, Klamath
26 County, Oregon, situate in Section 36CD, Township 38 South, Range

1 9 E.W.M., Klamath County, Oregon. The property is a corner lot
2 located east of Patterson Street, south of Cherry Way, in Moyina
3 Heights. It is trapezoidal in shape with dimensions approximately
4 227 feet along the southeasterly property line, 125 feet along a
5 northeasterly property line, 120 feet along Cherry Way, and 161
6 along Patterson Street. The property is designated Urban under
7 the Klamath County Comprehensive Plan and carries a zone
8 designation of RL (low density residential). The property is
9 approximately 18,000 square feet. The property slopes slightly to
10 the west, contains a 2,000 square foot residence with attached 480
11 square foot studio, and a workshop and garage totalling 1,700
12 square feet. Vegetation consists of plants, shrubs and trees
13 generally consistent with residential living. Access to the
14 property is available off both Patterson Street and Cherry Way
15 through a circular driveway. The property is generally surrounded
16 by improved homesites of similar size and description.

17 2. Applicant seeks a conditional use permit under Klamath
18 County Land Development Code, Section 85.003 (Home Occupations)
19 and Section 44.003 to permit use of the property as an art studio.

20 3. Access to the property is by a circular driveway
21 connecting with both Patterson Street and Cherry Way, both paved
22 roads improved to County road standards. Water is provided by the
23 City of Klamath Falls, sewer disposal by South Suburban Sanitary
24 District, fire protection by Fire Protection District No. 1, and
25 electricity by Pacific Power & Light. The property lies within
26 the attendance area of Klamath County School District No. 1.
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2 4. Applicants seek to use the studio and workshop area to
3 offer art classes and instruction to artists, largely in
4 conjunction with the artists main employment at Cogley Art Center,
5 4035 South Sixth Street, Klamath Falls, Oregon 97603. Klamath
6 County Exhibit B, (Plot Plan) and Exhibit D, (Photos) reveal that
7 applicants have substantial off street parking. Applicants
8 indicate that the proposed use will not be the primary use of the
9 residence, and that no more than 25 percent of the floor area of
10 the main structure will be developed as an art studio, that no
11 external or internal additions will be involved. The home
12 occupation will employ 2 to 4 people with classes running from 3
13 to 5 days, all classes having from 5 to 10 students each.

14 5. This application is subject to Article 85 of the Land
15 Development Code (Home Occupations), Article 44 (Conditional Use
16 Permit Requirements), and Article 51.006 (Property Development
17 Standards-Low Density Residential).

18 6. The hearings officer finds pursuant to Section 85.003(B):
19 A. The occupation will be conducted entirely within the
20 studio to the house and the workshop and permitted accessory
21 building.

22 B. That the occupation is not the primary use and will be
23 operated by a resident of the property.

24 C. The business will not employ any full time employees, and
25 not more than 2 part-time employees.

26 D. No equipment will be used on the property except such
27 uses as may be used for purely domestic or household purposes.
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1 E. Less than 25 percent of the total square footage of the
2 floor area of the residence will be used for this home occupation.

3 F. That the occupation will not require internal or external
4 alterations or involve construction features which change the
5 principal character or use of the dwelling.

6 G. That the sign requirements shall be met.

7 7. The hearings officer finds that the property has space
8 for adequate off-street parking. In this regard the hearings
9 officer specifically shall require the applicant to maintain and
10 reserve parking for not less than 5 automobiles for patrons use
11 only; these 5 spots to be marked with small signs indicating the
12 parking is for patrons of the art studio.

13 8. LDC Section 44.003(A) requires a finding that the use be
14 permitted in the appropriate zone. LDC Section 85.002 states that
15 home occupation shall be conditionally permitted in any
16 residential zone. This section has been met.

17 9. The location, size, design and operating characteristics
18 of the proposed use must be in conformance with the Klamath County
19 Comprehensive Plan. In this regard the hearings officer
20 specifically finds as follows:

21 A. Goal 1 (Citizen Involvement) has been met as notice has
22 been given to adjacent property owners, affected public agencies,
23 by mailing of notice and by publication in the Herald & News, a
24 newspaper of public circulation, and a hearing has been held. The
25 hearings officer specifically finds that no person has appeared in
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1 opposition to the application. The hearings officer finds that
2 Citizen Involvement has been met.

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

7 C. The following goals do not directly apply to this
8 application:

9 Goal 3 (Agricultural Lands); Goal 4 (Forest Lands); Goal 5
10 (Open Spaces, Scenic, Historic and Natural Resource Areas); Goal
11 6, (Air, Water and Land Resource Quality); Goal 7 (Natural
12 Disaster and Hazard Area); Goal 8 (Recreation Needs); Goal 9
13 (Economy of the State); Goal 10 (Housing); Goal 11 (Public
14 Facilities and Services); Goal 12 (Transportation); Goal 13
15 (Energy Conservation); and Goal 14 (Urbanization) do not directly
16 apply nor affect this application.

17 10. The location, size, design and operating characteristics
18 of the proposed development must be compatible with and not have
19 significant adverse affects upon the appropriate development and
20 use of abutting properties in the surrounding neighborhood. The
21 hearings officer finds that no neighbors appears either at the
22 hearing or in writing to question or contest the granting of this
23 conditional use permit. The hearings officer concludes that
24 location, size, design and operating characteristics of the
25 proposed use will be compatible with and will not have a
26 significant adverse affect upon the appropriate development and
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1 use of abutting property in the surrounding neighborhood based
2 upon the following conditions:

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

5 B. That the applicant shall maintain off-street parking for
6 a minimum of 5 cars belonging to patrons which space shall not be
7 used, occupied or otherwise encroached upon by the applicant, in
8 the applicant's use of the property.

9 C. That the applicant employ no more than 2 part-time
10 instructors, one of whom shall be one of the owners of the
11 residence.

12 D. That the property shall not be used as a commercial art
13 studio in which art is offered for resale nor shall it engage in
14 retail sales of paint, canvas, frames, or other artist supplies,
15 except in conjunction with classes being taught thereon.

16 E. That no classes be conducted after 11:00 P.M..

17 F. That this use shall be adjunct to and supplemental to
18 applicant's other business enterprise, Cogley's Art Center.

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

21 CONCLUSIONS OF LAW

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

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

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

7 4. The granting of this conditional use permit is
8 consistent with the goals of the land conservation and development
9 condition.

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

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

17 B. That the applicant maintain off-street parking for a
18 minimum of 5 cars belonging to patrons which space shall be
19 designated by signs and not be used, occupied or otherwise
20 encroached upon by the applicant, the applicant's use of the
21 property.

22 C. That the applicant employ no more than 2 part-time
23 instructors, one of whom shall be one of the owners of the
24 residence.

25 D. That the property shall not be used as a commercial art
26 studio in which art is offered for resale nor shall it engage in
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1 retail sales of paint, canvas, frames, or other artist supplies,
2 except in conjunction with classes being taught thereon.

3 E. That no classes be conducted after 11:00 P.M..

4 F. That this use shall be adjunct to and supplemental to
5 applicant's other business enterprise, Cogley's Art Center.

6 Therefore the hearings officer based upon the foregoing
7 findings of fact and conclusions of law accordingly orders as
8 follows:

9 That the real property described as:

10 "as Lots 10 and 11, Moyina Heights, Klamath County, Oregon,
11 situate in Section 36CD, Township 38 South, Range 9 E.W.M.,
12 Klamath County, Oregon"

13 is hereby granted the conditional use permit and home
14 occupation with conditions described above.

15 Entered Klamath Falls, Oregon this 2nd day of February, 1987.

16 KLAMATH COUNTY HEARINGS OFFICER

17 Bradford J. Aspell
18 BRADFORD J. ASPELL

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of February the 4th day
of February A.D., 19 87 at 10:18 o'clock A M., and duly recorded in Vol. M87
of Deeds on Page 1774.

FEE NO FEE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk
By Pam Smith