

In the Matter of the Request)	C.U.P. Case No. 34-88
for a Conditional Use Permit)	FINDINGS OF FACT, CONCLUSIONS
for CHRIS ELVERFELD.)	OF LAW AND ORDER

THIS MATTER came before Deputy Hearings Officer Michael C. Miller on October 6, 1988 in the Klamath County Commissioners' Hearing Room. The applicant was present and represented himself. The Klamath County Planning Department was represented by Mr. J. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated into the record as evidence. The Deputy County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicant has requested a Conditional Use Permit to allow him to conduct a home occupation on Lot 10, Block 26 of the 4th Addition to Klamath River Acres, Tax Account No. 3907-026C0-1100. The property is accessed by Freight Lane Road and is zoned R-1. The applicant is currently operating the business on the property and made application for a conditional use permit only after the planning department was made aware of the operation by objecting neighbors.

2. The subject property consists of three one-acre lots which are treated by the applicant as one parcel. The subject occupation consists of dispatching vehicles to off-premise locations for the purpose of pumping waste materials from septic tanks or delivery and retrieval of portable toilets. No handling

or storage of waste materials occurs on the premises. On-premise activity consists of storage of portable toilet units; storage of five vehicles; and dispatching and bookkeeping incidental to the operation of the business. Minor vehicle repairs of the vehicles occur in a shop building located on the premises.

3. The applicant testified that normal activities consist of two employees driving to the property in their motor vehicles in the morning. The employees would then drive a pumping truck and a truck used for transportation and portable toilets out to the various job sites. The vehicles would generally not return to the property until the conclusion of the workday. At that time, the two employees would again drive their private motor vehicles through the subdivision on their way home. In addition to the truck operations, a bookkeeper travels to and from the residence daily. There are other incidental trips to the property and deliveries which do not occur on a regular basis. The subject property is located on the subdivision's northwestern edge. Vehicles traveling to and from the subject property have to drive the entire length of the subdivision on either Ponderosa Lane or Freight Road Lane.

4. There was substantial opposition to this Conditional Use Permit. Donald E. Shaw presented a petition purportedly bearing the signatures of 53 residents of the Klamath River Acres Subdivision. Additionally, 6 persons offered oral testimony in opposition. The major focus of the opposition was traffic related. However, the visual appearance of the portable toilets stored on the applicant's property was also objected to.

5. There was conflicting testimony as to the extent that

the home occupation impacted the subdivision's gravel roads. However, the deputy hearings officer finds that the home occupation generates ten trips across the subdivision each weekday which are in addition to what the residential use of the property would cause.

6. There also was conflicting testimony as to the extent that materials stored on the property were visible from adjacent roads and parcels. Exhibit C from Staff and Exhibit M-1 from the opposition to the permitted use show the portable toilet storage area to be plainly visible from the road running in front of the property.

CONCLUSION AND ORDER:

Section 85.001 The purpose of these sections is to ensure that occupations conducted within one's own residence shall not be objectionable to the neighborhood in which it is located and shall maintain the residential character and appearance of both the dwelling and neighborhood.

Section 85.003 B Conditions for Home Occupations - Approval of home occupations shall be subject to the following findings:

1. That the occupation is conducted entirely within a dwelling or a permitted accessory building.

10. That any outdoor storage of materials be screened from view of the street by a sight-obscuring fence or hedge.

The applicant presented a well thought out application and presentation on his own behalf. However, it is the Deputy Hearings Officer's conclusion that the existing operation of the home occupation does not conform to the Klamath County Land

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Development Code Sections cited above. That is due to the negative impact on the traffic and road situation in the subdivision and the visibility of the portable storage area. The applicant testified that nothing further could be done to mitigate the impact on the traffic and road conditions. Further, he testified that he was unwilling to take further steps to screen the view of the portable toilet storage area. Accordingly, it is the order of the Deputy Hearings Officer that the application of Chris Elverfeld for a Conditional Use Permit for a home occupation, Case No. 34-88, is denied.
 DATED THIS 20th day of October, 1988.

Michael C. Miller
 Michael C. Miller
 Deputy Hearings Officer

Klamath County Land Development Code Section 24.007 provides:
 "An order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.
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