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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request ) C.U.P. Case No. 49-88  
 for a Conditional Use Permit ) FINDINGS OF FACT, CONCLUSIONS  
 for RAY BAIRD. ) OF LAW AND ORDER

THIS MATTER came before Deputy Hearings Officer Michael C. Miller on January 19, 1989 in the Klamath County Commissioners' Hearing Room. The applicant was present and represented himself. The Klamath County Planning Department was represented by Carl Shuck 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 Klamath County Planning Department staff indicated that the logs awaiting sawing were not visible from the street in front of the property. The staff was generally in support of the application so long as conditions were imposed to mitigate its less desirable aspects. The applicant testified in support of the application and described the proposed use as the delivery of two loads of logs per week. The logs are unloaded onto the ground and then sawed into cord wood. The cord wood is delivered by the applicant to purchasers. The sawing generally starts at 9 a.m. and continues through the day until 2:30 or 3 p.m. The applicant conducts the business along with his uncle who is a tenant on the subject property. The log sawing takes place out of doors in the open portion of the property and the bookkeeping portion of the business occurs in a residence located on the property.

Bob Stanley of 3227 Altamont also testified in support of the application. Mr. Stanley lives on adjacent property. He testified that the sound of the chain saws is audible, but not

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objectionable. He also testified that he was not aware of any objections to the noise by his neighbors.

Carol Beagle of 3234 Bisbee Street, No. 3, testified in opposition to the application. She lives on the front portion of the subject property in a mobile home. She objected to the noise from the chain saws and the number of trips to and from the property by other tenants. She expressed concern about the safety of her children who could wander onto the portion of the property where the logs are stored and sawing occurred. She indicated that the fence surrounding her residence was in disrepair.

Also testifying in objection to the application was Leo Denn of 3610 Highway 140 West. Mr. Denn had never been to the subject property. He testified that he had some association with the Department of Environmental Equality and indicated that there were laws limiting the amount of noise which could be generated at various times.

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 conduct a home occupation on a portion of a lot zoned suburban residential. The lot is 307' feet deep and the occupation is mainly conducted out of doors on the back 1/2 of the lot.
2. There is no residence or permitted accessory building on the property wherein the log sawing can occur.
3. The applicable criteria for a home occupation are set

out at Section 85.003 (B) of the Land Development Code.

CONCLUSION AND ORDER:

The home occupation for which the Conditional Use Permit is requested is expressly prohibited by the Land Development Code since it is impossible to find that this home occupation occurs entirely within a dwelling or permitted accessory building. 85.003 (B) (1). Accordingly, the request is denied. The applicant is encouraged to appeal this decision to the Klamath County Commissioners who have the authority to modify the Land Development Code to permit this and many other home occupations which cannot be conducted entirely within a building.

DATED THIS 20th day of January, 1989.

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."

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 23rd day  
of Jan. A.D., 1989 at 11:30 o'clock A M., and duly recorded in Vol. M89,  
of Deeds on Page 1313.  
Evelyn Biehn, County Clerk  
By Pauline Mullins

FEE none

Return: Commissioners Journal