

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request) C.U.P. 4-90
 for the Conditional Use Permit) FINDINGS OF FACT,
 for CHAUNCEY FARRELL AND) CONCLUSION OF LAW
 PENNIE FARRELL.) AND ORDER

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This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on March 9, 1990, in the Klamath County Commissioners' Hearing Room. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. The applicant, Chauncey Farrell, was present at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by Mr. Carl Shuck and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, including Exhibits A (Staff Report), B (Plot Plan), C (Photos), D (Assessor's Map), E (Application), and F, F1 and F2 (Photos). The Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicants have applied for a Conditional Use Permit to allow "Home Occupation" use of their residence for massage, physical therapy and psychotherapy services in the RM Zone (Medium Density Residential) pursuant to Land Development

Code Section Article 85. The subject property is located at 5533 Summers Lane, Klamath Falls, Oregon, approximately 250 feet south of Selma Avenue on the east side of Summers Lane and is described as Lot 22 of the Elmwood Park Subdivision, located in a portion of Section 14, T39, R9, Tax Lot 1700. The site is located within the Klamath Falls Urban Growth Boundary.

2. Applicants propose to use a small portion of their residence to provide massage, physical therapy and psychotherapy services to a limited number of clients on weeknights as supplemental income to their weekday jobs in the same professions. Chauncey Farrell is a licensed physical therapist and massage therapist who works at the local hospital and Fernie Farrell is a licensed psychotherapist (MSW, RCSW & ACSW) who is employed at a nearby residential substance abuse treatment facility.

3. Applicants intend to restrict their services to a maximum of one client per hour, with one-hour appointments scheduled between 5:00 p.m. and 8:00 p.m., Monday through Friday, the last client being scheduled at 7:00 p.m. This would result in a maximum of two (2) client vehicles at the residence at any time and there appears to be ample parking at the site and adequate ingress and egress via the circular driveway which would apparently prevent any traffic safety problems.

4. There was no testimony in opposition to this

request despite notification of several nearby property owners and Applicant testified he had discussed this proposal with two (2) neighbors who voiced no objection.

5. The Applicants' lot is located within Klamath County Fire District No. 1, has electricity (PP&L), telephone, water (City of Klamath Falls), and sewer facilities (South Suburban Sanitary District). Access will be off Summers Lane into a "circular" driveway on the property.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Article 44 of the Land Development Code sets forth the criteria for granting a Conditional Use Permit.

2. Article 85 sets forth the standards for allowing "Home Occupations" and Section 85.002 specifically provides "Home occupations shall be conditionally permitted in any zone that allows residential uses."

3. LDC Section 85.003 sets forth ten (10) requirements for allowing Home Occupations.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

A. With respect to the application for Conditional Use Permit to allow "Home Occupation" use of their residence for massage, physical therapy and psychotherapy services in the RM Zone, the Hearings Officer makes the following findings:

(1) As set forth above under the Klamath County Land Development Code Criteria, Section 85.002 allows a Home Occupation as a conditional use in the RM Zone.

(2) The location, size, design and operating characteristics of the proposed massage, physical therapy and psychotherapy services are in conformance with the Klamath County Comprehensive Plan. The Hearings officer makes the following findings pursuant to Section 85.003:

- a. The proposed service is conducted entirely within a portion of the dwelling;
- b. The proposed business is not the primary use and is operated by a resident of the property;
- c. The business will employ only two (2) part-time persons (applicants);
- d. No equipment is used except such as may be used for purely domestic or household purposes;
- e. No more than twenty-five percent (25%) of the floor area of one story of the dwelling is devoted to such home occupation;
- f. No accessory buildings will be used for the home occupation;
- g. The business does not require internal or external alterations, or involve construction features that change the principal character or use of the dwelling involved;
- h. Applicant indicates no sign shall be posted;

i. Adequate access and off-street parking shall be maintained; and

j. There will be no outdoor storage of materials.

(3) The location, size, design and operating characteristics of this proposed "Home Occupation" are compatible with and will have no significant adverse affects on the appropriate development and use of abutting properties and the surrounding neighborhood. As set forth above in the Findings of Fact, there was no testimony or evidence in opposition to this application and no indication that the use will have any adverse affect on the neighborhood or abutting properties.

ORDER:

The subject application for a Conditional Use Permit allow "Home Occupation" use of the subject property for massage, physical therapy and psychotherapy services is granted subject to the following conditions:

1. Hours and manner of operation shall be restricted as follows:

- a. Monday through Friday;
- b. Maximum of three (3), one-hour, single-client appointments per day;
- c. No appointments shall commence prior to 5:00 p.m. or after 7:05 p.m.

2. The permit is restricted to Lot 22 only.

3. Applicants shall at all times comply with the restrictions of Section 85.003 B (1-10).

4. All driveway and parking areas shall be "all-weather" maintained.

DATED this 14th of March, 1990.

Richard C. Whitlock
Richard C. Whitlock, 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 15th day
of March A.D., 19 90 at 9:36 o'clock A.M., and duly recorded in Vol. M90
of Deeds on Page 4786.

Evelyn Biehn . County Clerk
By Richard Mullens

FEE none

Return: Commissioners Journal

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