

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the HOME
OCCUPATION PERMIT

) HOPU 2-94
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CHAUNCEY & PENNIE FARFELL

This matter came before Michael L. Brant, Hearings Officer for Klamath County, Oregon, on October 7, 1994, in the Klamath County Museum Meeting Room in Klamath Falls, Oregon. The hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related statutes and ordinances. The Klamath County Planning Department was represented by Mr. Kim Lundahl, and the recording secretary was Ms. Karen Burg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter.

FINDINGS OF FACT

1. The applicants were granted approval on February 28, 1994 to establish a Physical Therapy home occupation and a Counseling home occupation at their home located at 1310 McClellan Drive, Moyina Heights, Klamath Falls, Oregon. The property is zoned RL (Residential Low Density). The permit conditioned the home occupation to operated between 4 PM and 7 PM with one client per hour. The applicants have now applied to expand the home occupations to operate between 8 AM and 7 PM with no more than 4 clients per hour. All client parking to be provided by the applicants off-street.

2. The applicants were represented by Attorney Michael Spencer. The applicants testified. Opponents were represented by

Attorney William Brandsness. Testimony was received, both orally and in written form from numerous supporters of and opponents to the applicants' request.

3. The issue before the Hearings Officer was whether or not the applicants' request for a permit to expand the scope of the home occupations should be approved. This was not a review of the original application, approval thereof or performance pursuant thereto.

4. Chauncey Farrell provides Physical Therapy services. Pennie Farrell provides Counseling services. In addition to Chauncey and Pennie Farrell there is one part time employee who provides receptionist and bookkeeping services.

5. The testimony revealed that the applicants have, on occasion, adjusted the hours to accomodate clients. Sometimes Chauncey Farrell and Pennie Farrell each have clients at the same time.

6. There was no evidence that the present home occupations activity has substantially increased traffic flow beyond the flow which may reasonably expected in the neighborhood absent the home occupations.

7. Article 85.010 of the Klamath County Land Development Code defines a home occupation " as an occupation or enterprise carried on within a dwelling or accessory building, for financial gain by a member of the immediate family residing within the dwelling; the occupation or enterprise must be accessory to the residential primary use. Article 85.020 (C) provides " The use will employ no more than 1 full or part time person;".

CONCLUSION

The potential increase of clients and the attendant traffic increase to a maximum of forty four (44) clients per day would adversely impact the residential neighborhood. To allow expansion of the home occupations to eleven hours per day with a maximum of four (4) clients per hour would unreasonably stretch the interpretation of the intent and purpose of the code.

The question of the legality of the home occupations was not within the jurisdiction of the Hearings Officer in this proceeding, therefore no comment in that regard is included herein.

ORDER

The permit to expand HOPU 2-94 is denied.

DATED THIS 18th day of October, 1994.

Michael L. Brant
 Michael L. Brant
 Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.060 PROVIDES:

"An Order of the Hearings Officer may be appealed to the Board of County Commissioners within seven (7) days of its mailing as set forth in Article 33."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ Klamath County _____ the 21st day of _____ Oct _____ A.D., 19 94 at 10:23 o'clock _____ A.M., and duly recorded in Vol. _____ M94 of _____ feeds _____ on Page 32753.

FEE none
 Commissioners Journal
 Evelyn Biehn - County Clerk
 By *Dorinda M. Ballentine*