

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Michael Clark)
for a Conditional Use Permit For a Type II Home) Final Order No. 78-2007
Occupation in the Single Family Residential (R-10) Zone)

WHEREAS, on August 30, 2006, Michael Clark (hereinafter referred to as the "Applicant") submitted an application for a Conditional Use Permit for a Type II Home Occupation to operate a light-duty trailer manufacturing business on an approximately 3.92 acre parcel of property zoned as Single-Family Residential (R-10), having Tax Account Numbers 7407-000-02200 and 7407-000-02206; and

WHEREAS, the Columbia County Planning Commission held a hearing in the matter and approved the application on December 11, 2006; and

WHEREAS, on December 18, 2006, Michael Clark, filed an appeal of the Planning Commission's decision with the Columbia County Board of Commissioners; and

WHEREAS, on March 7, 2006, the Board of County Commissioners held a de novo hearing on the application; and

WHEREAS, during the hearing evidence was received into the record, a list of which is attached hereto as Attachment 1, and is incorporated herein by this reference; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the record, and continued the matter to March 21, 2007, for deliberations; and

WHEREAS, on March 21, 2007, the Board carried the matter over to April 11, 2007, for deliberations; and

WHEREAS, on April 11, 2007, the Board opened the hearing and introduced Exhibits 4, 5 and 6 into the record, copies of which are attached hereto as Attachments 2, 3, and 4 respectively; and thereafter voted to tentatively approve the application;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners, dated February 28, 2007, which is attached hereto as Attachment 5, and is incorporated herein by this reference.
- B. The Application for a Conditional Use Permit CU 07-07, is APPROVED subject to the following conditions of approval:

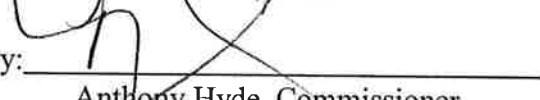
1. This permit shall become void unless the business has commenced in conformance with all conditions and restrictions established herein within 2 years of the date of this final order. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicant is not responsible for failure to commence in conformance with all conditions of approval. Otherwise, as long as the conditions are met, this Conditional Use Permit has no expiration.
2. The Home Occupation business shall be operated by a resident or employee of a resident of the property on which the business is located.
3. The Home Occupation business shall employ no more than five (5) people, regardless of whether or not they are full-time or part-time positions.
4. Before any sign is established for this Home Occupation business, approval and all applicable permits shall be obtained from the County. All applicable sign standards in effect at the time of the Application for a sign shall apply.
5. The Department of Land Development Services reserves the right to review this application again in the future if it is determined that adjacent properties are being negatively impacted by the operation of this Home Occupation business.
6. This Conditional Use Permit shall be applicable to this proposal only and shall not run with the land.
7. No Home Occupation business activity shall occur until:
 - A. Either an existing building located on the subject property is improved to Building Code standards or a new building is constructed that complies with Building Code standards according to the occupancy classification of the Home Occupation business use as determined by the building official.
 - B. The Clatskanie RFPD has inspected the Home Occupation property and has submitted documentation to the County that it will allow the Home Occupation business to commence.
8. Road improvements as described in the letter from the Columbia County Road Department dated April 3, 2007, which is attached hereto as Attachment 6, and is incorporated herein by this reference, and all applicable permits associated with those improvements shall be completed and approved by the Road Department within six (6) months from the date of this final order. Failure to make the required improvements within six (6) months from the date of this final order shall revoke this Permit, notwithstanding the 2 year period set forth in Condition 1, above.

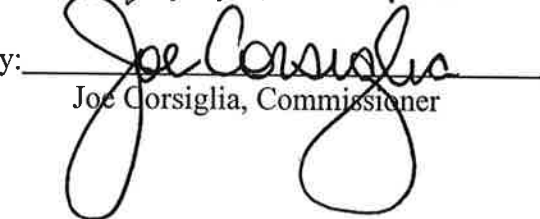
9. All activity related to this Home Occupation business shall be conducted between the hours of 8a.m. and 9 p.m. only.
10. The Home Occupation business shall be restricted to wholesale activities. Retail activities shall be prohibited.
11. All fabrication and assembly activities related to this Home Occupation business shall be conducted indoors.
12. Once the Home Occupation business ceases or is required to cease, whichever comes first, the building used for the Home Occupation business shall be decommissioned to a Building Code occupancy classification for a residential garage/shop, as determined by the Building Official.
13. Any departure from the conditions of approval and restrictions established herein shall subject this Conditional Use Permit to suspension or revocation in accordance with the procedures of the Columbia County Zoning Ordinance.

Dated this 18th day of April, 2007.


BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Rita Bernhard, Chair

By: 
Anthony Hyde, Commissioner

By: 
Joe Corsiglia, Commissioner

Approved as to form

By: 
County Counsel's Office

ATTACHMENT 1

EXHIBIT 1- County Counsel's File

- a. Notice of Public Hearing (Publication);
- b. Notice of Public Hearing (Property Owner Notice);
- c. Affidavit of Mailing;
- d. Affidavit of Publication;
- e. Board Communication dated March 7, 2007, with the following attachments:
 - 1. Staff Report dated Feb. 28, 2007;
 - 2. Letter to Michael Clark dated October 6, 2006;
 - 3. Memo to LDS from Lonny Welter dated April 18, 2006;
 - 4. Memo to LDS from Lonny Welter dated November 6, 2006;
 - 5. Letter to David Middle from Norman Aske dated October 18, 2006;
 - 6. Agreement between Neighbors dated August 31, 2006;
 - 7. Reason for Appeal dated December 18, 2006;
 - 8. Final Order CU 07-07 dated December 11, 2006;
 - 9. Vicinity map;
 - 10. Address Map;
 - 11. Zoning Map;
 - 12. CUP Application;
 - 13. Plot Map;
- F. Board Communication dated December 22, 2006;
- G. Appeal Form received December 18, 2006;
- H. Minutes of Planning Commission Meeting dated November 6, 2006;
- I. Minutes of Planning Commission Meeting dated December 4, 2006;
- J. Letter from Norman Aske dated March 3, 2007;
- K. Email from Lonny Welter to Jacob Graichen;
- L. Fax to Mike Clark dated 12/14/06;
- M. Waiver of 120 day rule;
- N. Certificate of Mailing dated December 12, 2006;
- O. Final Order CU 07-07;
- P. Appeal Information for CU 07-07;
- Q. Revised Staff Report to the Planning Commission dated Nov. 20, 2006;
- R. Letter to LDS from Sharon Coates dated November 2, 2006;
- S. Plot Map;
- T. Letter of Compliance from Standard Tools and Equipment;
- U. Staff Report to the Planning Commission dated October 25, 2006;
- V. Referral Contact List with the following:
 - 1. Referral and Acknowledgment Building Official;
 - 2. Referral and Acknowledgment Clatskanie Fire District;
 - 3. Referral and Acknowledgment, County Sanitarian;
 - 4. Referral and Acknowledgment, County Roadmaster;
 - 5. Referral and Acknowledgment Clatskanie CPAC;
- W. Certificate of Mailing dated September 26, 2006;

- X. List of Persons to receive Notice;
- Y. Notice of Public Hearing dated September 21, 2006;
- Z. Letter to Michael Clark dated September 19, 2006;
- AA. Notice of Public Meeting, Clatskanie CPAC;
- BB. Plot Map;
- CC. Building Plans.

EXHIBIT 2-Photos taken by the Road Department March 2, 2007.
EXHIBIT 3- 4 photos submitted by Michael Clark.

AFFIDAVIT OF FAX AND MAILING

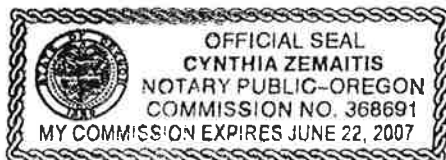
I, Jan Greenhalgh, Board Secretary, being first duly sworn, depose and say:

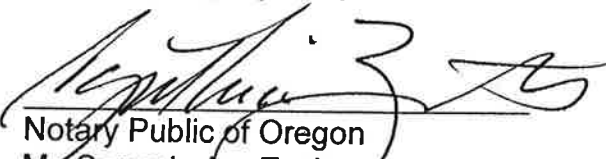
That on the 4th day of April, 2007, I faxed a copy of the attached letter to Michael Clark at #1-503-728-3698. I also mailed the original to Michael Clark at 16776 Orchard Street, Clatskanie, OR 97016.


Jan Greenhalgh

STATE OF OREGON)
) ss.
County of Columbia)

Subscribed and sworn to before me this 5th day of April, 2007.




Notary Public of Oregon
My Commission Expires: _____

COLUMBIA COUNTY

APR 09 2007

COUNTY COUNSEL



Board of Commissioners

230 Strand Street, Rm 331, St. Helens, Oregon 97051-2096 *Ph: 503-397-4322
*Fax 503-397-7243

Commissioner Rita Bernhard
Commissioner Anthony Hyde
Commissioner Joe Corsiglia
Jan Greenhalgh, Board Secretary
Janet Wright, Commissioners Assistant

(Bernhar@co.columbia.or.us)
(hydet@co.columbia.or.us)
(corsigj@co.columbia.or.us)
(greenhj@co.columbia.or.us)
(wrightj@co.columbia.or.us)

April 4, 2007

Michael Clark
16776 Orchard Street
Clatskanie, OR 97016

RE: Exparte Contact between Commissioner Bernhard and Lonny Welter

Dear Mr. Clark:

During the Board meeting of March 21, 2007, it was stated that Commissioner Bernhard had a discussion with Lonny Welter, Transportation Planner with Columbia County, regarding various issues related to your application. This discussion took place after the hearing was closed and is therefore considered exparte contact which is required to be disclosed.

I have attached a copy of Commissioner Bernhard's statement outlining the discussion she had with Lonny and you have the opportunity to rebut any of those comments. The deadline for any rebuttal will be 5:00 pm on April 10, 2007.

Should you have any questions, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Jan Greenhalgh".

Jan Greenhalgh
Board Secretary

c: Sarah Hanson, Assistant County Counsel
Todd Dugdale, LDS Director

MICHAEL CLARK HOME OCCUPATION APPLICATION

Ex Parte Info from Commissioner Rita Bernhard

On March 15, 2007, Lonnie Welter came into my office to discuss the Michael Clark application. In addition to items that were mentioned in the record, there were a few new pieces of information that I did not recall seeing in the record. They were:

- Lonnie understood that there were buildings on site built without permits, etc.
- Lonnie understands that Mr. Clark either by himself or along with a partner intend to further develop the property or properties up there? (ie. Approximately 40 new home sites.)
- Lonnie felt that Mr. Clark may have misrepresented his intent to further develop the property or properties on Orchard Road?
- We both questioned the confusion there seems to be about the length of time the business was proposed to actually operate.

In addition, on March 19, 2007, I did a ride-a-long with our Roadmaster Dave Hill on a tour throughout the County to view the condition of a number of problem roads. Orchard Street was one of them.

The road has a steep slope, is full of pot holes and is very narrow. One side of the road comes right up against the hillside. The other side of the road may have a few spots for a very small turnout.

It was raining and water was running down the road in the ruts of the travel lane. From what I could see, there probably could be a small ditch dug on the side of the road closest to the hillside. That might help with the water run-off problem.

It looked like there were only a couple of neighbors along the road. There were several trailers parked on the Clark property.

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT

MEETING DATE: APRIL 11, 2007

TO: BOARD OF COUNTY COMMISSIONERS
 FROM: Todd Dugdale, Director of Land Development Services
 SUBJECT: **DELIBERATIONS- Appeal of Conditional Use Permit-Michael Clark**
 CU 07-07 Appeal of Planning Commission Approval w/Conditions
 Conditional Use Permit - Type II Home Occupation/Light Trailer Mfg
 LOCATION: 16716 Orchard Street in Clatskanie Urban Growth Boundary

SUMMARY:

The Board of Commissioners held a public hearing on the above matter on March 7, 2007; closed the hearing and set the matter over for deliberations until April 11, 2007. Staff from LDS and the Road Department met with Michael Clark on April 2, 2007 to discuss the conditions on Planning Commission approval, in particular, conditions # 2 establishing a two year validity period for the and condition # 8b specifying required road improvements. Further discussion ensued by phone and e-mail concerning amended language for conditions #1, #2 and #8b. The Road Department agreed to modify their improvement requirements as noted in their Memorandum Dated April 3, 2007 (Attachment 2) Mike Clark reviewed the amendments and signed off on the changes as contained in Attachment 1 and highlighted below.

1. ~~This Conditional Use Permit shall remain valid for two (2) years from the date of the final decision.~~ This permit shall become void, unless the proposal has commenced in conformance with all conditions and restrictions established herein within the two year validity period. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicant is not responsible for failure to commence with the proposal. **Otherwise, as long as these conditions are met, the Conditional Use Permit has no expiration.**
2. ~~The Home Occupation business shall not operate more than two (2) years from the date a Certificate of Occupancy is issued by the Building Official in accordance with condition 8(a). Once the two-year period has expired, continuance of this Home Occupation business shall be allowed only by a new Conditional Use Permit application.~~
8. All activity related to the Home Occupation business shall not be allowed until:
 - b. Road improvements as described in the letter from the Columbia County Road Department, dated ~~November 6, 2006~~ April 3, 2007 and all applicable permits associated with those improvements shall be completed and approved by the Road Department **within six (6) months from the date of the final decision. Failure to comply with this condition shall cause the Conditional Use Permit to become null and void. .**

Staff Recommendation:

Staff recommends the Board of Commissioners approve the Conditional Use Permit with the amended conditions in Attachment 1.

ATTACHMENTS:

- 1) Amended Conditions of Approval
- 2) Memorandum from Road Department dated April 3, 2007

COLUMBIA COUNTY

APR 09 2007

COUNTY COUNSEL

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CU 07-07 CONDITIONS OF APPROVAL - As discussed by the applicant Mike Clark and County LDS staff:

1. This permit shall become void, unless the proposal has commenced in conformance with all conditions and restrictions established herein within the two-year validity period. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicant is not responsible for failure to commence with the proposal; otherwise, as long as these conditions are met, this Conditional use Permit has no expiration.
2. The Home Occupation business shall be operated by a resident or employee of a resident of the property on which the business is located.
3. The Home Occupation business shall employ no more than five (5) people, regardless of whether or not they are full-time or part-time positions.
4. Before any sign is established for this Home Occupation business, approval and all applicable permits shall be obtained from the County. All applicable sign standards in effect at the time of County review shall apply.
5. The Department of Land Development Services reserves the right to review this application again in the future if it is determined that adjacent properties are being negatively impacted by the operation of this Home Occupation business.
6. This Conditional Use Permit shall be applicable to this proposal only and shall not run with the land.
7. All activity related to the Home Occupation business shall not be allowed until:
 - a. Either an existing building located on the subject property be improved to Building Code standards or a new building be constructed that complies with Building Code standards, according to the occupancy classification of the Home Occupation business use as determined by the Building Official.
 - b. Once a building has been approved for the Home Occupation pursuant to condition 7(a), the Clatskanie RFPD shall be allowed an onsite inspection of the facilities used for the Home Occupation business. Documentation shall be submitted to the County that indicates Clatskanie RFPD will allow the Home Occupation business to commence.
8. Road improvements as described in the letter from the Columbia County Road Department, dated April 3, 2007 and all applicable permits associated with those improvements shall be completed and approved by the Road Department within six (6) months from the date of final decision. Failure to comply with this condition shall cause this Conditional Use Permit to become null and void.
9. All activity related to this Home Occupation business shall be conducted between the hours of 8am and 9pm only.

Page 1- Acknowledgement:



CU 07-07 Amended Conditions

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BOOK 097 PAGE 565

10. The Home Occupation business shall be restricted to wholesale activities. Retail activities shall be prohibited.
11. All fabrication and assembly activities related to this Home Occupation business shall be conducted indoors.
12. Once the Home Occupation business ceases or is required to cease as a condition of approval, whichever comes first, the building used for the Home Occupation business shall be decommissioned to a Building Code occupancy classification for a *residential* garage/shop, as determined by the Building Official.
13. Any departure from the conditions of approval and restrictions established herein shall subject this Conditional Use Permit to suspension or revocation in accordance with the procedures of the Columbia County Zoning Ordinance.

I Michael Clark hereby acknowledge that I have reviewed these amended conditions for my proposed Home Occupation request, and given an opportunity to comment, have no objection to these conditions.

Michael Clark
Signature

2/5/07
Date



Columbia County Road Department

1054 Oregon Street, St. Helens, OR 97051

Dave Hill, Public Works Director

Ph: (503) 366-3964 Fax: 397-7215

e-mail: hilld@co.columbia.or.us

to: LDS

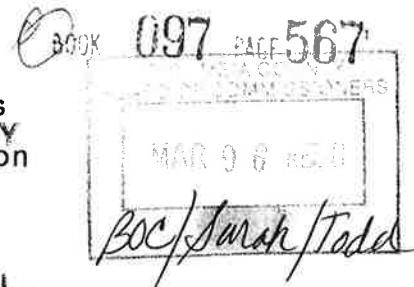
from: Dave Hill, Public Works Director

date: April 3, 2007

subject: Mike Clark, CU 07-07, Orchard Street

Per our discussion yesterday, the following is a list of improvements required by the Road Department for improvements to Orchard Street as a condition of home occupation for Mike Clark:

1. Construct 3 turnouts at locations as to be determined and to the extent feasible within the existing limits of shoulder and right-of-way. The turnout construction will not include excavation into the hillside or involve any significant fill, but will include excavating the existing shoulder and perhaps using existing driveway access locations.
2. Construct a ditch along the cutslope of the roadway to improve drainage, and cross culverts at locations to be determined. Obtain a utility locate prior to any excavation.
3. Obtain a permit from the Road Department to include a schematic for the improvements.



Columbia County Department of Land Development Services
Board of County Commissioners for Columbia County, Oregon
March 1, 2007

MAR 06 2007

I am a member of the Clatskanie CPAC, and my property (7N4W07-00-02204), co-owned with my husband Tom, is adjacent to the property (-02206) of Mike Clark, who has applied for a conditional use permit for a home occupation. This letter is an updated version of a letter dated November 2, 2006 that I sent to Jacob Graichen, Planner:

I give my *conditional* support for the permit if the language of the planners and the commissioners provides that:

- (1) The home business is **strictly** wholesale, not retail, and **small** in scale. At present, there may be one or two employees.

Rationale. The unimproved county gravel road (SW Orchard Street) is very narrow. When vehicles traveling in opposing directions meet, one of them must usually back up to the nearest available wide area.

It is my understanding that many years ago the County accepted the road with the provision that it would not maintain the road. The City of Clatskanie intermittently mows the edges and puts gravel down, and in February 1996 did extensive rip-rap work on one section after it eroded into the canyon. But I have observed that the following property owners are the principals in maintaining the road: Dick and Sylvia Hurula, John and Melissa Norgren, Jim Price, Gary Olaen, Tom and Sharon Coates, and Norm and Sue Aske. They donate the equipment and the effort to mow the edges, maintain the drainage ditches, fix holes, grade, and share in the cost of the delivery of rock. Logging companies who have logged timber for absentee owners have been somewhat accommodating about repairing the road. However, in the months of January and February, 2007, the logging outfit currently removing logs from private property have left the road in extreme disrepair: wheels have etched longitudinal tracks in the road, mud has displaced gravel, and there are many potholes bunched together so that driving around them is next to impossible.

- (2) Appropriate technology is required to **be in place** to eliminate paint fumes that have the potential to impact neighbors and the environment, and

reasonable efforts are made to reduce noise generated by the home business.

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Rationale. In his application Mike stated, "I built a 1200 sq ft county permitted shop on my land specifically planned for this work." A photo of the shop building is in the paper work of the application. Because the noise and paint fumes were impacting them, Norm and Sue Aske asked Mike to do something. Since the October meeting of the CPAC, I have learned that the paint booth will not be in that building, but will be in a building to be constructed near our west property line. The fumes and noise, if any, could impact us as well because they would be in the prevailing wind pattern from the southwest.

If it is true that the permit can apply to a *different* shop building to be constructed on the property, and it looks like something is planned because a site was undergoing clearing in late October 2006, then I am somewhat perplexed that the new building was not mentioned in the application that the CPAC considered in its October meeting. I would appreciate a clarification of the plan from the planning department.

- (3) The permit, if granted, is subject to County review if the above conditions are not met.
- (4) The permit, if granted, is revoked if the property is sold; or it is used for the business, but it is no longer a "home" business in the sense that Mike and his family actually make their home there.

Due to my work, I may not be able to attend the hearing on Wednesday, March 7, 2007, so I have submitted this letter for your consideration.

Sharon Coates

Sharon Coates

16714 SW Orchard St.

P.O. Box 366

Clatskanie, OR 97016

503-728-3056

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT

MEETING DATE: March 7, 2007

COLUMBIA COUNTY

TO: BOARD OF COUNTY COMMISSIONERS

MAR 02 2007

FROM: Todd Dugdale, Director of Land Development Services

COUNTY COUNSEL

SUBJECT: PUBLIC HEARING

CU 07-07 Appeal of Planning Commission Approval w/Conditions
Conditional Use Permit - Type II Home Occupation/Light Trailer Mfg

LOCATION: 16716 Orchard Street in Clatskanie Urban Growth Boundary

APPELLANT: Michael Clark, Applicant/Appellant

SUMMARY:

Applicant, Michael Clark has appealed the Planning Commission's conditional approval of his Type II Home Occupation for the manufacture of light duty trailers on a 3.92 acre site zoned R-10(Single Family Residential) on Orchard Street in the Clatskanie Urban Growth Boundary,

There have been two Planning Commission hearings for this proposal. At the first in November 2006, staff recommended denial of the Conditional User Permit largely due to Road Department concerns about the substandard condition of Orchard Street, the subject site's only access. The Planning Commission continued the hearing to December 2006 and asked staff prepare conditions for approval that included a time limit for the CUP and a condition addressing the concerns of the Road Department about adequacy of Orchard Street.

In the December hearing, staff offered 13 recommended conditions of approval which included condition #2, imposing a two year time limit for the CUP and condition #8b, requiring certain improvements to Orchard Street recommended by the Road Department. The Road Department maintained its recommendation for denial of the CUP but recommended improvements to Orchard Street if the application was approved. The owner/appellant appealed Planning Commission conditions #2 and #8b.

Planning Commission Decision:

The Planning Commission approved the request with 13 conditions contained in the attached Board of Commissioners's staff report.

Staff Recommendation:

Staff recommends the Board of Commissioners uphold the Planning Commission's decision and deny the appeal.

ATTACHMENTS:

- 1) Board of Commissioners Staff Report w/ attachments (correspondence)
- 2) Planning Commission Final Order
- 3) Application Materials

PREPARED BY: Jacob A. Graichen, AICP, Planner III

COLUMBIA COUNTY BOARD OF COMMISSIONERS

STAFF REPORT

February 28, 2007

Conditional Use Permit - Type II Home Occupation

Appealed Planning Commission Decision

HEARING DATE: March 7, 2007

FILE NUMBER: CU 07-07

APPLICANT: Michael Clark; PO Box 373; Clatskanie, OR 97016

OWNER: Jennifer S. Clark; PO Box 373; Clatskanie, OR 97016

SITE LOCATION: 16716 Orchard Street; Clatskanie, OR 97016

TAX ACCOUNT NO: 7407-000-02200 & 7407-000-02206

ZONING: Single-Family Residential (R-10)

SITE SIZE: Approximately 3.92 acres

REQUEST: Conditional Use Permit for a Type II Home Occupation to manufacture light-duty trailers.

APPLICABLE REVIEW CRITERIA:

Columbia County Zoning Ordinance

		<u>Page</u>
Section 700	Single-Family Residential (R-10)	3
Section 1300	Signs	3
Section 1400	Off-Street Parking and Loading	4
Section 1503	Conditional Uses	4
Section 1507	Home Occupations	9

APPLICATION COMPLETE: Sept. 19, 2006 **120-DAY DEADLINE:** Feb. 16, 2007
(Note: applicant waived 120-day deadline)

BACKGROUND:

The applicant requests a Conditional Use Permit for a Type II Home Occupation to conduct a light-duty trailer manufacturing operation. The type of work that will occur includes but is not limited to welding, pressure washing, painting, wiring, woodwork (trailer deck material) and general assembly. The proposal involves delivery of goods to the site used to build the trailers and removal of the finished product from the site by truck. This proposal does not include on-site retail sales. Most of the work is proposed to take place within an existing garage/shop building although some may take place outside.

The subject property is irregular in shape and is developed with a single-family dwelling and accessory buildings. One of those accessory buildings—an approximate 1,200 square foot garage/shop—is where the trailer manufacturing is proposed to take place. This is a new structure; the Building Permit for it was issued in December of 2005. The site abuts and has access from Orchard Street, a gravel road. The property is within the City of Clatskanie's Urban Growth Boundary and is serviced by City water, though its sewerage is accommodated by a septic system. All properties adjacent to the site are zoned Single-Family Residential (R-10) and appear to be developed with residential uses.

The Building Permit issued for the garage/shop was based on residential usage. However, because of the nature of the home occupation, commercial Building Code standards are required, thus, substantial retrofitting to the building will be required. See attached letter from Renee Gierman, Plans Examiner to the applicant dated October 6, 2006. The plans submitted to the Building Department misrepresented the proposed use as they indicated a 40' x 30' detached garage with an attached 14' x 14' garden shed. Currently, the garage is being used for manufacturing (the proposed home occupation in question) and the garden shed is used as an office. Note that the written materials submitted by the applicant for the home occupation application included: "I built a 1,200 square foot County permitted shop on my land specifically planned for this [light duty trailer manufacturing] work."

There is an existing Code Enforcement file COD 2007-00003 related to this proposal. On July 26, 2006 the County received a complaint from a neighbor of the of the applicant. The complaint addressed concerns about the trailer manufacturing operation occurring at the subject property and the resulting paint fumes, noise and dust from the gravel road (i.e. Orchard Street). On July 31, 2006 the applicant was contacted by the County's Code Enforcement Officer who advised that a Conditional Use Permit for a Home Occupation was required; the applicant was operating without one. Thus, the catalyst for this Conditional Use Permit for a Type II Home Occupation was not by the applicant's initiative, but rather code enforcement action.

Though the subject property is located within the Big Game Range Overlay pursuant to Section 1190 of the Columbia County Zoning Ordinance, it is zoned R-10 and thus acknowledged as "built and committed" according to the County's Comprehensive Plan. Since the property is "built and committed" the standards of this overlay zone are not applicable.

Photo of the garage/shop where most of the trailer manufacturing work is proposed to take place. Related activity outside would take place within the vicinity of this structure. Note some of the jigs used are visible in the foreground. Retrofitting to this structure will be necessary to comply with Building Code standards for the proposed home occupation use, unless a new building is constructed that meets Building Code standards.



The first hearing for this proposal before the Planning Commission took place November 6, 2006. At that hearing, staff recommended denial of the application. The Planning Commission, conversely, discussed recommending approval with conditions, some of which were talked about at the hearing. As a result, the hearing was continued to December 4, 2006 so that staff may revise the staff report to include conditions of approval.

At the December 4, 2006 hearing, the Planning Commission approved the request with conditions. The notice date of this decision was December 12, 2006. On December 18, 2006, the applicant filed an appeal of the Planning Commission decision, pertaining to some of the conditions of approval (see attached "reasons for appeal" letter from appellant dated December 18, 2006).

On December 21, 2006, the applicant signed and submitted a waiver to the 120-day rule for land use decisions pursuant to ORS 215.427(1).

REVIEW CRITERIA, FACTS, ANALYSIS & FINDINGS:

Columbia County Zoning Ordinance Section 700 Single-Family Residential

703 Conditional Uses:

- .1 Home occupations in accordance with ORS 215.448.

Discussion: Home occupations are a conditionally permitted use in the RR-5 zone.

Finding 1: The proposal is possible given approval of this Conditional Use Permit and compliance with the conditions thereof.

Continuing with Columbia County Zoning Ordinance Section 700 Single-Family Residential

704 Criteria for Approval of Conditional Uses:

- .1 Signs shall be in accordance with Section 1300.
- .2 Off-street parking shall be in accordance with Section 1400.

Discussion: Sections 704.1 and 704.2 will be addressed later in this report.

Continuing with Columbia County Zoning Ordinance Section 1300 Signs

1305 Signs pertaining to urban area home occupations (as defined within this Ordinance):

- .1 Shall not exceed 3 square feet.

- .2 Shall be located inside the dwelling or located flat against the dwelling within which the home occupation is conducted.
- .3 Only one such sign shall be permitted upon the premises.
- .4 Shall not be artificially illuminated.

Discussion: This property is within the City of Clatskanie's Urban Growth Boundary, which separates urban from rural areas. As such, it is an urban home occupation for the purpose of this section. Though the applicant does not indicate any, a sign is possible as this is a Type II Home Occupation (signs are not allowed with Type I Home Occupations). Before any sign is established for this business, approval shall be granted from the County and the sign shall comply with all applicable standards of Columbia County's Zoning Ordinance. Note: not all applicable sign standards are noted herein.

Finding 2: Any sign proposed in the future will require County approval and compliance with all applicable standards.

Continuing with County Zoning Ordinance Section 1400 Off-Street Parking

1416 **Minimum Required Off-Street Parking Spaces:**

.1 **Residential Uses:**

Single-Family Dwelling: Two spaces for each dwelling unit.

Discussion: Though off-street parking and loading is not specifically addressed for home occupation manufacturing in this section, analysis of its potential impact is necessary to ensure the health, safety and welfare of those residing and visiting properties within the surrounding area is not compromised. There appears to be adequate space around the garage/shop and between the garage/shop and single-family dwelling for reasonably sized trucks to maneuver without obstructing the right-of-way for excessive periods of time. There also appears to be adequate off-street parking area, such that any conflict between the parking needs of the single-family dwelling and the trailer manufacturing operation would not conflict.

Finding 3: Based on the information provided, there is no evidence that this proposal will compromise on-site parking/loading or create parking/loading problems for neighboring properties.

Continuing with County Zoning Ordinance Section 1503 Conditional Uses

- 1503 .4 **Suspension or Revocation of a Permit:** A Conditional Use Permit may be suspended or revoked by the Commission when any conditions or restrictions imposed are not satisfied.

- A. Conditional Use Permit shall be suspended only after a hearing before the Commission. Written notice of the hearing shall be given to the property owner at least 10 days prior to the hearing.
- B. A suspended permit may be reinstated, if in the judgment of the Commission, the conditions or restrictions imposed in the approval have been satisfied.
- C. A revoked permit may not be reinstated. A new application must be made to the Commission.

Discussion: Though a Home Occupation may be found to not jeopardize public health, safety and welfare now, it could evolve such to do so in the future. Thus, compliance with all conditions and applicable standards is necessary to ensure that the home occupation remains harmonious with surrounding properties.

Finding 4: Compliance with conditions imposed in granting a Conditional Use Permit (CUP) and adherence to any approved plan shall be required. Any departure from these conditions of approval and the approved plans constitutes a violation of this ordinance. In such circumstances this Conditional Use Permit will be subject to suspension or revocation.

Continuing with County Zoning Ordinance Section 1503 Conditional Uses

1503 .5 Granting a Permit: The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:

- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;
- B. The use meets the specific criteria established in the underlying zone;
- C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;
- D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;
- E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use

of surrounding properties for the primary uses listed in the underlying district;

F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;

G. The proposal will not create any hazardous conditions.

Discussion: Home occupations are a conditionally permitted use in the R-10 zone as previously noted. Permits are required to be obtained before a home occupation may commence. This Conditional Use Permit is being applied after the home occupation began. Any activity related to this home occupation will be required to cease immediately, not to resume until all conditions are met. **The use is listed as a Conditional Use in the zone which is currently applied to the site.**

R-10 zoning standards generally apply to new development or land divisions. As this proposal involves a use that will take place predominantly indoors and does not involve new structures the standards of the R-10 zone are not triggered. If new structures are proposed they would be reviewed against the appropriate standards at the time of Building Permit application. **The use meets the specific criteria established in the underlying zone.**

The proposal does not involve any exterior modifications to the subject property (unless a new building is constructed), nor is there evidence it will generate excessive traffic or create parking problems for neighboring properties. Further, there is no evidence that the site itself (not including rights-of-way) is of insufficient size or layout, such that the home occupation could not reasonably function. **The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.**

There is no evidence that this proposal will compromise the existing septic system, City of Clatskanie water, electricity or any other utility or service except for Orchard Street. Orchard Street is a dead-end public right-of-way and is the only transportation system accessing this site and properties around it as they are located at it's terminus. A comparison of the last approximately 1,500 feet of Orchard Street and current County standards for a local classified public street is as follows:

	<u>Orchard Street - Last 1,500 feet</u>	<u>Local Public Street Standards</u>
Right-of-way width	40-feet	50-feet
Improved surface	gravel	pavement
Improvement width	10-feet	20-feet
Shoulders	None	3-foot gravel
Grade	Approx 300' has 17%	Maximum allowed is 12%

The last approximate 1,500 feet of Orchard Street is substandard. Further, bringing that section of road up to standards is not very feasible due to steep slopes in some sections, which limits the ability

to physically widen the road. The Road Department also notes that some of the slope from the road has shown signs of failure; should the slope fail, there would be no access to properties at the end of the road. This stretch of road already has problems and additional traffic beyond that created by typical residential uses—heavy trucks in particular—will exacerbate them. However, improvements to the road as required and approved by the County Road Department can help mitigate problems with the road. Thus, though **the site and proposed development is NOT timely, considering the inadequacy of transportation systems (namely Orchard Street), public facilities, and services existing or planned for the area affected by the use**, road improvement exactions can help offset any negative impacts, such that this proposal may be allowed.

The area's residential character could be impacted by this proposal by sight, smell and noise. First, with several trailers and other related items outdoors the visual implications of a small manufacturing business can be contrary to a residential area. Second, odor created by painting several items could be atypical. To explain, though people may paint as a hobby or as do-it-yourself work, the extent of painting and volume used in conjunction with a manufacturing operation can be more than that used by a typical resident. The same can be said for noise.

The most appropriate way to manage the proposal's potential visual, odorous and noise issues is with mitigation. Visual impact can be handled by either restricting activities indoors (other than deliveries or pickups) or requiring screening from neighboring properties and rights-of-way by landscaping and/or fencing. Because the site is located at the end of a dead-end street and no complaint was received regarding appearance, visual mitigation in the form of outdoor screening is not warranted at this time. However, fabrication and assembly activities shall be conducted indoors only.

Noise can be mitigated by restricting all activity related to the Home Occupation business to certain times: between the hours of 8am and 9pm, for example. The time restriction may help with any odor problems too along with Building Code requirements (i.e. permits for paint booth). **The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district, given conditions of approval.**

With regards to the County's Comprehensive Plan, Part X - Economy, is the most applicable. There are two goals of Part X:

1. To strengthen and diversify the economy of Columbia County and insure stable economic growth.
2. To utilize Columbia's natural resources and advantages for expanding and diversifying the economic base.

This proposal recognizes these goals in that the home occupation will generate income for the inhabitants, much of which will likely be spent locally. Further, this is a local product and adds to

the overall diversity of the regional economy. **The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.**

There are at least three potential hazardous conditions this proposal could create. First, given that all work takes place indoors there is no attractive nuisance for children, for example. But trailers and implements used to manufacture them (namely jigs) left outside could become an impromptu playground for children in the area. But on the other hand, this site is on a dead end road, which minimizes the number of people who see it. As such, a fence or other means of securing the materials, tools and products is not warranted at this time.

The second potential hazard regards the condition of Orchard Street. As previously noted, this stretch of road already has problems and additional traffic beyond that created by typical residential uses—heavy trucks in particular—will exacerbate them. The worst case scenario is slope failure rendering the road unusable. But, if the applicant is required to do improvements to the road, negative impacts to can be reduced.

The third hazard issue regards the Building Code. As aforementioned, the current garage/shop structure does not meet Building Code standards. As such, it requires improvements. Building Codes are an example of “police power.” The exercise of police power is a government’s right to protect public health, safety and welfare. Thus, Building Codes are meant to protect health and safety or prevent hazardous conditions. Therefore, either an existing building on site shall be brought to Building Code standards or a new building, accessory to the existing single-family dwelling, be constructed that meets Building Code standards.

In addition, given a two-year maximum duration of this Conditional Use Permit, the road and any other aspect can be re-evaluated to ensure this proposal will not jeopardize public health, safety and welfare. Note that the two-year time limit was originally brought up by the Planning Commission at the November 6, 2006 hearing. Before recommending a time limit, the Planning Commission asked the applicant how he felt about it. The applicant saw no problem with such a condition at that time and it was included as a recommended condition at the December 4, 2006 Planning Commission hearing.

The proposal may create hazardous conditions, but they can be mitigated with conditions of approval.

Finding 5: Staff finds that criteria Section 1503.5 (A), (B), (C) and (F) are met.

Finding 6: Staff finds that criterion Section 1503.5 (D), (E) & (G) can be met with conditions.

Continuing with County Zoning Ordinance Section 1503 Conditional Uses

1503 .6 **Design Review:** The Commission may require the Conditional Use be subject to a site design review by the Design Review Board or Planning

Commission.

Discussion: This proposal is subject to Planning Commission review, but staff does not recommend requirement of a site design review considering the scope of the proposal.

Finding 7: A Design Review is not warranted for this proposal.

Continuing with County Zoning Ordinance Section 1507 Home Occupations

1507 .2 **Type 2:** A Type 2 home occupation is reviewed as a Conditional Use by the Planning Commission and may be visible to the neighborhood in which it is located. In addition to the general criteria in Subsection 1507.3, the following criteria shall apply to a Type 2 home occupation:

- A. It shall be operated by a resident or employee of a resident of the property on which the business is located.
- B. It shall employ on the site no more than five full-time or part-time persons.
- C. Signs are permitted as per Section 1300 of the CCZO.

Discussion: This is a Type II application subject to Planning Commission review. This proposal is such that it may be visible at times. Mitigation of visual and other impacts are discussed above.

The applicant indicates on the land use application that there will be two employees including the applicant himself. **The Home Occupation business will be operated by a resident or employee of a resident of the property on which the business is located and will not employ more than five people on site.** Though it appears these criteria are met, they shall be conditions of approval to ensure compliance for the life of the proposal.

The applicant does not indicate any proposed signs. This issue is addressed above.

Finding 8: The criteria of Section 1507.2 can be met with conditions.

Continuing with County Zoning Ordinance Section 1507 Home Occupations

1507 .3 The following criteria shall apply to all home occupations:

- A. A home occupation shall be operated substantially in:
 - 1. The dwelling; or
 - 2. Other buildings normally associated with uses permitted in the zone in which the property is located.
- B. A home occupation shall not unreasonably interfere with other uses

permitted in the zone in which the property is located.

Discussion: This Home Occupation business is proposed to take place in a garage/shop—an allowed accessory structure subordinate to a single-family dwelling. The applicant may use an existing one or build a new one. The subject property is zoned R-10 and detached single-family dwellings are a permitted use in the R-10 zone. **This Home Occupation business will be operated substantially in buildings normally associated with the permitted uses of the zone where the property is located.**

The impact or interference this proposal will have on other permitted uses in the zone where the property is located is addressed above.

Finding 9: The criteria of Section 1507.3 are met, given conditions of other approval criteria as discussed herein.

COMMENTS RECEIVED:

City of Clatskanie: (no response)

Clatskanie CPAC: The road to the property may not be of high quality but we do not see any reason that it would fail if used as proposed. We request that the business be maintained as a wholesale venture and not become retail in order to keep the road traffic at a minimum. We suggest that attention be paid to emission of paint fumes and reasonable attempts be made to minimize any possible negative impact.

Clatskanie Fire District: Would like onsite visit by Clatskanie RFPD and Deputy State Fire Marshall [after Building Permit(s) are issued].

County Sanitarian: No objection.

County Roadmaster: Denial of application recommended. This business will generate additional traffic on a substandard road. See attached letter dated April 18, 2000 to Land Development Services from Lonny Welter, Transportation Planner regarding the condition of Orchard Street. Also see attached letter dated November 6, 2006, from Lonny Welter, regarding advised improvements to Orchard Street.

County Assessor: (no response)

County Building Official: Will need permits for painting booth and vent system for welding.

Norman L. Aske (neighbor): See attached letter dated October 18, 2006

No further comments from agencies, citizens or otherwise have been received regarding this proposal

as of the date of this staff report.

CONCLUSION, & RECOMMENDED DECISION & CONDITIONS:

Based on the facts, findings and comments herein, staff recommends the Board of Commissioners uphold the Planning Commission's decision to approve this Conditional Use Permit for a Type II Home Occupation, subject to the following conditions:

1. This Conditional Use Permit shall remain valid for two (2) years from the date of the final decision. This permit shall become void, unless the proposal has commenced in conformance with all conditions and restrictions established herein within the two-year validity period. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicant is not responsible for failure to commence with the proposal.
2. The Home Occupation business shall not operate more than two (2) years from the date a Certificate of Occupancy is issued by the Building Official in accordance with condition 8(a). Once the two-year period has expired, continuance of this Home Occupation business shall be allowed only by a new Conditional Use Permit application.
3. The Home Occupation business shall be operated by a resident or employee of a resident of the property on which the business is located.
4. The Home Occupation business shall employ no more than five (5) people, regardless of whether or not they are full-time or part-time positions.
5. Before any sign is established for this Home Occupation business, approval and all applicable permits shall be obtained from the County. All applicable sign standards in effect at the time of County review shall apply.
6. The Department of Land Development Services reserves the right to review this application again in the future if it is determined that adjacent properties are being negatively impacted by the operation of this Home Occupation business.
7. This Conditional Use Permit shall be applicable to this proposal only and shall not run with the land.
8. All activity related to the Home Occupation business shall not be allowed until:
 - a. Either an existing building located on the subject property be improved to Building Code standards or a new building be constructed that complies with Building Code standards, according to the occupancy classification of the Home Occupation business use as determined by the Building Official.

- b. Road improvements as described in the letter from the Columbia County Road Department, dated November 6, 2006 and all applicable permits associated with those improvements shall be completed and approved by the Road Department.
 - c. Once a building has been approved for the Home Occupation pursuant to condition 8(a), the Clatskanie RFPD shall be allowed an onsite inspection of the facilities used for the Home Occupation business. Documentation shall be submitted to the County that indicates Clatskanie RFPD will allow the Home Occupation business to commence.
9. All activity related to this Home Occupation business shall be conducted between the hours of 8am and 9pm only.
 10. The Home Occupation business shall be restricted to wholesale activities. Retail activities shall be prohibited.
 11. All fabrication and assembly activities related to this Home Occupation business shall be conducted indoors.
 12. Once the Home Occupation business ceases or is required to cease as a condition of approval, whichever comes first, the building used for the Home Occupation business shall be decommissioned to a Building Code occupancy classification for a *residential* garage/shop, as determined by the Building Official.
 13. Any departure from the conditions of approval and restrictions established herein shall subject this Conditional Use Permit to suspension or revocation in accordance with the procedures of the Columbia County Zoning Ordinance.

ATTACHMENTS:

Letter from Renee Gierman, Plans Examiner to the applicant dated October 6, 2006

Letter from Lonny Welter, Transportation Planner dated April 18, 2000

Letter from Sharon Coates, Clatskanie CPAC member and neighbor, dated November 2, 2006

Letter from Lonny Welter, Transportation Planner dated November 6, 2006

Letter from Norman L. Aske, dated October 18, 2006

Letter from applicant/appellant, dated December 18, 2006

COLUMBIA COUNTY



OREGON

DEPARTMENT OF LAND DEVELOPMENT SERVICES

Columbia County Courthouse, St. Helens, Oregon 97051
Phone: (503)397-1501 Fax: (503)366-3902

October 6, 2006

Michael Clark
PO Box 373
Clatskanie, OR 97016

RE: Required Change of Occupancy Permit for illegally changed U to F-1 structure

Dear Mr. Clark:

You have asked the Columbia County Building Department to inform you of building code requirements for the above noted project. A substantial list has been made, and will require you to hire a registered design professional to address all of the items, to have a complete set of plans that will be acceptable for review. These requirements are in lieu of any and ALL planning regulations and/or procedures that must take place for the business to even be allowed.

Codes used to obtain requirements: 2004 (OSSC) Oregon Structural Specialty Code, 2004 (OFC) Oregon Fire Code, 2004 (OMSC) Oregon Mechanical Specialty Code, NFPA 33, NFPA 70 and NFPA 13 (National Fire Protection Association)

(The code sections only have been provided due to mass amounts of code needed. You, the applicant shall address the code items. You will need to seek a registered design professional to prepare your construction documents, Sec. 106.1 OSSC)

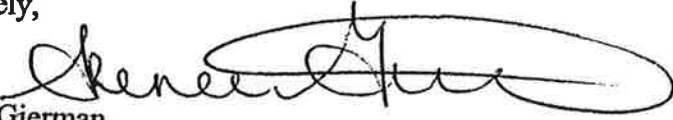
1. Spray booth requirements listed below:
 - a. Sec. 1502 OFC definition of spray booth
 - b. sec. 1504.1.2 OFC Spray Booth Design and Construction and sec. 1504.1.2.1 - 1504.1.2.6, 1504.2 - 1504.6 OFC and NFPA 33
 - c. NFPA 33 Chapter 3 - 7
 - d. NFPA 13 Supression System
2. Change of Occupancy from U to F-1
 - a. Provide assumed property line less than or equal to 10' from structure
 - b. Type V-B, F-1 1,200 sq.ft. + 196 sq.ft. = 1,396 sq.ft. total
 - c. Table 602 OSSC < 10', then F-1 requires 1-hr protection
 - d. Opening protection 25% if greater than or equal to 5' - 10' Table 704.8 OSSC
 - e. Landing required for door 1008.1.5 OSSC
 - f. Provide restroom section 2902 OSSC
 - g. Restroom required to be accessible ADA Chapter 11 OSSC

3. Hot Work to meet requirements of 2004 OFC Chapter 26
a. Sec. 510 of OMSC requires hazardous exhaust for hot work area

If you decide to go through with the legalization of the structure the above items are required.

I am available for counter or phone assistance between the hours of 8:30-10am and then again from 3-4:30pm.

Sincerely,

A handwritten signature in black ink, appearing to read "Renee Gierman", with a large, loopy flourish at the end.

Renee Gierman,
Plans Examiner

cc File
Robert Crain, Code Enforcement
Jacob Graichen, Planner



Columbia County Road Department
P.O. Box 366, 1004 Oregon Street, St. Helens, OR 97051

Transportation Planner

Phone (503) 397-5090

Fax 397-7215

TO: Land Development Services

FROM: Lonny R. Welter

DATE: Apr 18, 00

REF: Referral and Acknowledgment for MP 00-19, for Rich Larsen

LOCATION: TL 7407-000-02200/02206/02207, 16716 Orchard Str., Clatskanie, OR

BACKGROUND: Orchard Street has a 40 foot Right-Of-Way (ROW), the back 1500 + feet is graveled at 10 feet wide, and has a 300 foot section that is at 17% grade.

RECOMMEND: DENIAL

DISCUSSION: A requirement for this partition would be to bring Orchard Street up to Public Road Standards, per Columbia County Ordinances. Denial is based upon the nonfeasibility of bringing Orchard Street up to Public Road Standards. Public Road Standards require a paved surface 20 feet wide and less than 12 % grade. Even if the 17% grade section and the paving requirement is overlooked, due to steep side slopes in some sections, it is not feasible to construct a 20 foot wide road with 3 foot shoulders. Also this side slope shows signs of failure in the recent past, and if the entire slope fails, the existing four residents will be cut off. I do not recommend adding to the problems that already exist on this road.


Lonny R. Welter

I am a member of the Clatskanie CPAC, and my property (7N4W07-00-02204), co-owned with my husband Tom, is adjacent to the property (-02206) of Mike Clark, who has applied for a conditional use permit for a home occupation.

I give my *conditional* support for the permit if the language of the planners provides that:

- (1) The home business is *strictly* wholesale, not retail, and *small* in scale. At present, there may be one or two employees.

Rationale. The unimproved county gravel road is very narrow. When vehicles traveling in opposing directions meet, one of them must usually back up to the nearest available wide area.

It is my understanding that many years ago the County accepted the road with the provision that it would not maintain the road. The City of Clatskanie intermittently mows the edges and puts gravel down, and in February 1996 did extensive rip-rap work on one section after it eroded into the canyon. But I have observed that the following property owners are the principals in maintaining the road: Dick and Sylvia Hurula, John and Melissa Norgren, Jim Price, Gary Olaen, Tom and Sharon Coates, and Norm and Sue Aske. They donate the equipment and the effort to mow the edges, maintain the drainage ditches, fix holes, grade, and share in the cost of the delivery of rock. Logging companies who have logged timber for absentee owners have been somewhat accommodating about repairing the road.

- (2) Appropriate technology is required to *be in place* to eliminate paint fumes that have the potential to impact neighbors and the environment, and reasonable efforts are made to reduce noise generated by the home business.

Rationale. In his application Mike stated, "I built a 1200 sq ft county permitted shop on my land specifically planned for this work." A photo of the shop building is in the paper work of the application. Because the noise and paint fumes were impacting them, Norm and Sue Aske asked Mike to do something. Since the October meeting of the CPAC, I have learned that the paint booth will not be in that building, but will be in a building to be constructed near our west property line. The fumes and noise, if any, could impact us as well because they would be in the prevailing wind pattern from the southwest.

If it is true that the permit can apply to a *different* shop building to be constructed on the property, and it looks like something is planned because a site was undergoing clearing within the last two weeks, then I am somewhat perplexed that the new building was not mentioned in the application that the CPAC considered in its October meeting. I would appreciate a clarification of the plan from the planning department.

- (3) The permit, if granted, is subject to County review if the above conditions are not met.
- (4) The permit, if granted, is revoked if the property is sold; or it is used for the business, but it is no longer a "home" business in the sense that Mike and his family actually make their home there.

Due to my work, I may not be able to attend the hearing on November 6, 2006, so I have submitted this letter for your consideration.

Sharon Coates
Sharon Coates





Columbia County Road Department

1054 Oregon Street, St. Helens, OR 97051

Transportation Planner

Phone (503) 397-5090

Fax 397-7215

TO: LDS

FROM: Lonny R. Welter

DATE: Nov 6, 06

REF: Home Occupation Application CU 07-07, Mike Clark, Orchard Street

DISCUSSION: The County Road Department has recommended **Denial** based upon the existing poor road conditions of Orchard Street. Orchard Street has a 40 foot right-of-way with the back 1600 feet being an average of 12 to 14 feet wide with a 300 foot section at 17% grade. County Road Standards for a public road are a 20 foot wide roadway not exceeding a 12% grade. If the County Planning Commission approves this home occupation, and the objection of the County Road Department having been stated, the County Road Department advises that the following improvements be made to Orchard Street by the applicant.

Because the road cannot be feasibly constructed to 20 foot wide and 12% grade:

1. Turn-outs shall be constructed per the County Road Standards page 26 & 27, 2) and the Uniform Fire Code Article 9, Driveway Standards 10.3, B. Even though Planning Commission may not require the road to be brought up to public road standards, at minimum, it should be brought up to driveway standards.
2. Ditch and culvert drainage be constructed to divert water from flowing down Orchard Street. Applicant will be required comply with all environmental regulations, and apply for any permits with other agencies that may apply.

Prior to construction of the improvements, a plan must be submitted to the County Road Department for approval, and a Construction Permit obtained prior to any construction.

Lonny Welter
Columbia County
Transportation Planner

10/18/06

cc. Michael Clark
Trailer Manufacturer

David Middle
Land developments Services

BOOK 097 PAGE 587

the agreement on the reverse side of this sheet looked good to me, but on receiving your letter, I asked Mike about it, at that time he said he planned to keep his manufacturing as an ongoing business, at that point the agreement was null & void to myself & him.

My objection to his facility still stands as my complaint I filed earlier in the year at the courthouse.

I also think this matter would fall under measure 37 rules, as I feel this brings down the value of my property, because when the paint fumes & noise generated by the facility in my front yard, I don't want to be here who would a new owner Thank You

RECEIVED

OCT 19 2006

LAND DEVELOPMENT SERVICES

An Agreement Between Neighbors

08-31-06

This is a good faith agreement between Michael Clark & Norm Aske, both residing near the end of Orchard St. in Clatskanie, OR. In an effort of cooperation these two neighbors agree to the following:

Michael Clark will:

- Manufacture light utility trailers at his home
- These trailers will be welded, washed, painted & finished on sight and then delivered to dealers.
- All manufacturing of trailers will end on January 1, 2007
- All painting will end on January 1, 2007
- Business operations will end on January 1, 2007
- Michael Clark will cooperate with his neighbor in every way possible to achieve mutual goals.

Norm Aske will:

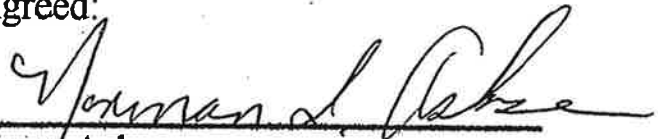
- Not hinder the manufacturing process in any way.
- Not make phone calls to the county or any authorities complaining about trailer production in any way.
- Norm Aske will cooperate with his neighbor in every way possible to achieve mutual goals.

Agreed:



Michael Clark
16716 Orchard St.

Agreed:



Norm Aske
16624 Orchard St.

Reason for appeal:

Primary focus: I disagree with the 2 year limit and the road work requirements outlined in the "Final Order" from the Staff.

During the first hearing in November, I presented my case and was received by the board with complete approval. One member motioned for approval and before a second could occur, Staff interrupted and suggested a continuous so they could rewrite the staff report with the code requirements pertaining to the existing building on site. The road dept. requirements had already been dismissed at this point.

The second hearing in December all fairness and justice went right out the window. New evidence was allowed in. The board was against this, however, again, on the advice of their staff, they reopened the public hearing and allowed the new \$15000.00 roadwork requirement to be discussed. After much discussion, the board unanimously found the roadwork requirements to be unfair and was in the process of voting in a \$2000 a year cap, when, yet again, Staff interrupted and informed them that they did not have the authority to alter the Road Dept. recommendations. Within minutes tails were tucked and the motion was passed as is without reopening the public hearing or without talking about additional options.

From the beginning, the road dept, and the Staff recommended denial of this Land Use permit. I did what was expected of me and presented my case to the prevailing authority on the matter. That board agreed with me on all counts, and in the end had no authority to rule in contradiction of the judgments of their own staff. This entire process and the very existence of the Land Use Committee appears to be a waste of time. Everything that was within my power to do, I did, and I won the day, then politics stepped in and I lost the war. I can only hope the appeals process goes better.

BEFORE THE
COLUMBIA COUNTY PLANNING COMMISSION
 ST. HELENS, OREGON

In the matter of an application of Michael)
 Clark for a Conditional Use Permit for a)
 Type II Home Occupation in the Single-)
 Family Residential (R-10) zone.)

FINAL ORDER CU 07-07

This matter came before the Columbia County Planning Commission on the application of Michael Clark for a Conditional Use Permit for a Type II Home Occupation to manufacture light duty trailers. The subject property is approximately 3.92 acres in size and is located at 16716 Orchard Street. The site is further described per the County Assessor's records as tax account numbers: 7407-000-02200 & 7407-000-02206.

Notification of this land use application was sent to affected agencies, the Clatskanie CPAC and surrounding property owners. A Public Hearing was held on November 6, 2006 and December 4, 2006 where the Planning Commission heard testimony from the applicant and interested parties and considered written materials including the Staff Report.

After due consideration, the Columbia County Planning Commission hereby adopts the findings in the Staff Report dated November 20, 2006, and orders this application (CU 07-07) for a Conditional Use Permit for a Type II Home Occupation, **APPROVED**, subject to the following conditions:

CONDITIONS OF APPROVAL

1. This Conditional Use Permit shall remain valid for two (2) years from the date of the final decision. This permit shall become void, unless the proposal has commenced in conformance with all conditions and restrictions established herein within the two-year validity period. Extensions of time may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date, given the applicant is not responsible for failure to commence with the proposal.
2. The Home Occupation business shall not operate more than two (2) years from the date a Certificate of Occupancy is issued by the Building Official in accordance with condition 8(a). Once the two-year period has expired, continuance of this Home Occupation business shall be allowed only by a new Conditional Use Permit application.
3. The Home Occupation business shall be operated by a resident or employee of a resident of the property on which the business is located.
4. The Home Occupation business shall employ no more than five (5) people, regardless of whether or not they are full-time or part-time positions.
5. Before any sign is established for this Home Occupation business, approval and all applicable permits shall be obtained from the County. All applicable sign standards in effect at the time of County review shall apply.

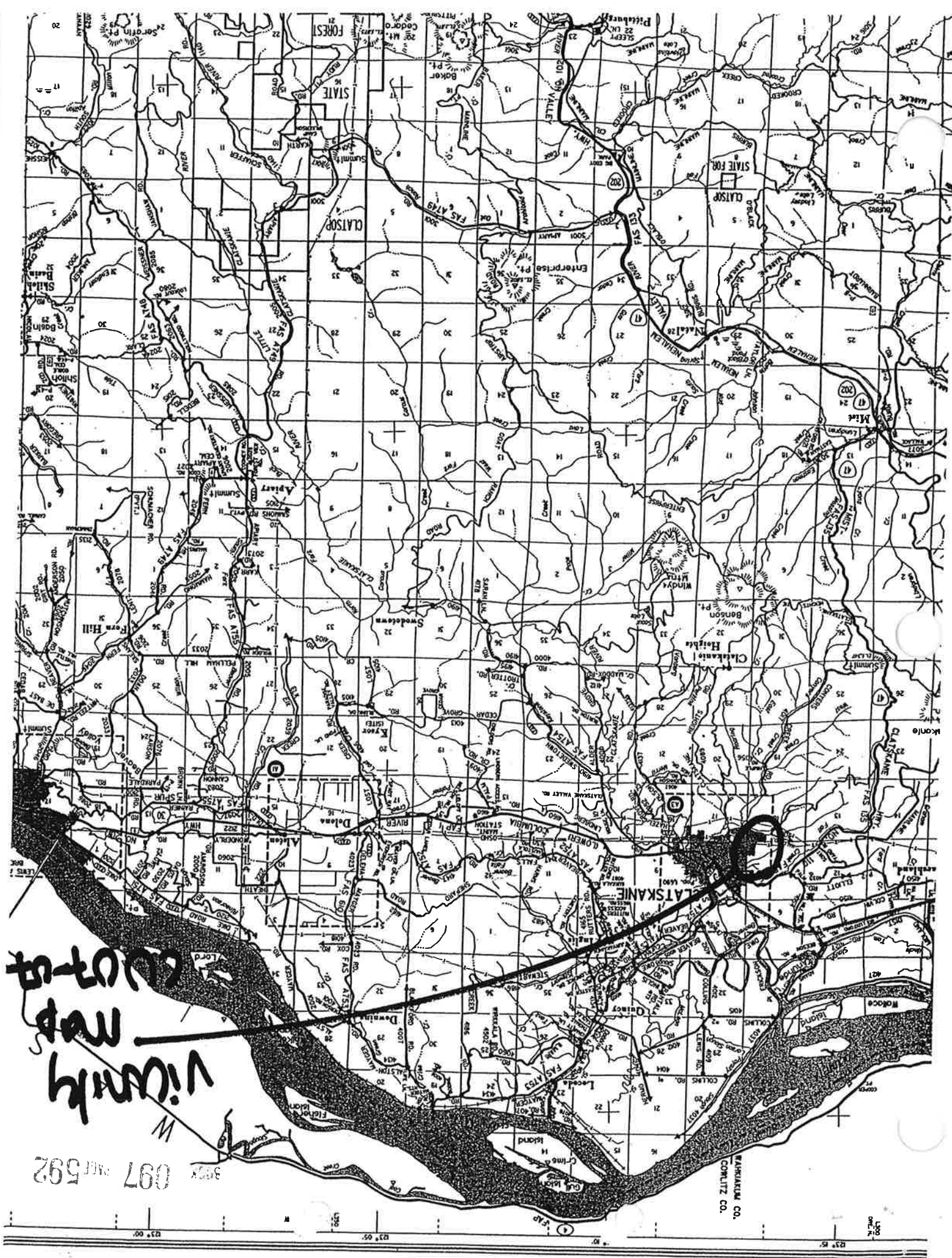
6. The Department of Land Development Services reserves the right to review this application again in the future if it is determined that adjacent properties are being negatively impacted by the operation of this Home Occupation business.
7. This Conditional Use Permit shall be applicable to this proposal only and shall not run with the land.
8. All activity related to the Home Occupation business shall not be allowed until:
 - a. Either an existing building located on the subject property be improved to Building Code standards or a new building be constructed that complies with Building Code standards, according to the occupancy classification of the Home Occupation business use as determined by the Building Official.
 - b. Road improvements as described in the letter from the Columbia County Road Department, dated November 6, 2006 and all applicable permits associated with those improvements shall be completed and approved by the Road Department.
 - c. Once a building has been approved for the Home Occupation pursuant to condition 8(a), the Clatskanie RFPD shall be allowed an onsite inspection of the facilities used for the Home Occupation business. Documentation shall be submitted to the County that indicates Clatskanie RFPD will allow the Home Occupation business to commence.
9. All activity related to this Home Occupation business shall be conducted between the hours of 8am and 9pm only.
10. The Home Occupation business shall be restricted to wholesale activities. Retail activities shall be prohibited.
11. All fabrication and assembly activities related to this Home Occupation business shall be conducted indoors.
12. Once the Home Occupation business ceases or is required to cease as a condition of approval, whichever comes first, the building used for the Home Occupation business shall be decommissioned to a Building Code occupancy classification for a *residential* garage/shop, as determined by the Building Official.
13. Any departure from the conditions of approval and restrictions established herein shall subject this Conditional Use Permit to suspension or revocation in accordance with the procedures of the Columbia County Zoning Ordinance.

COLUMBIA COUNTY PLANNING COMMISSION


DAVE MIDDLE, VICE CHAIRMAN

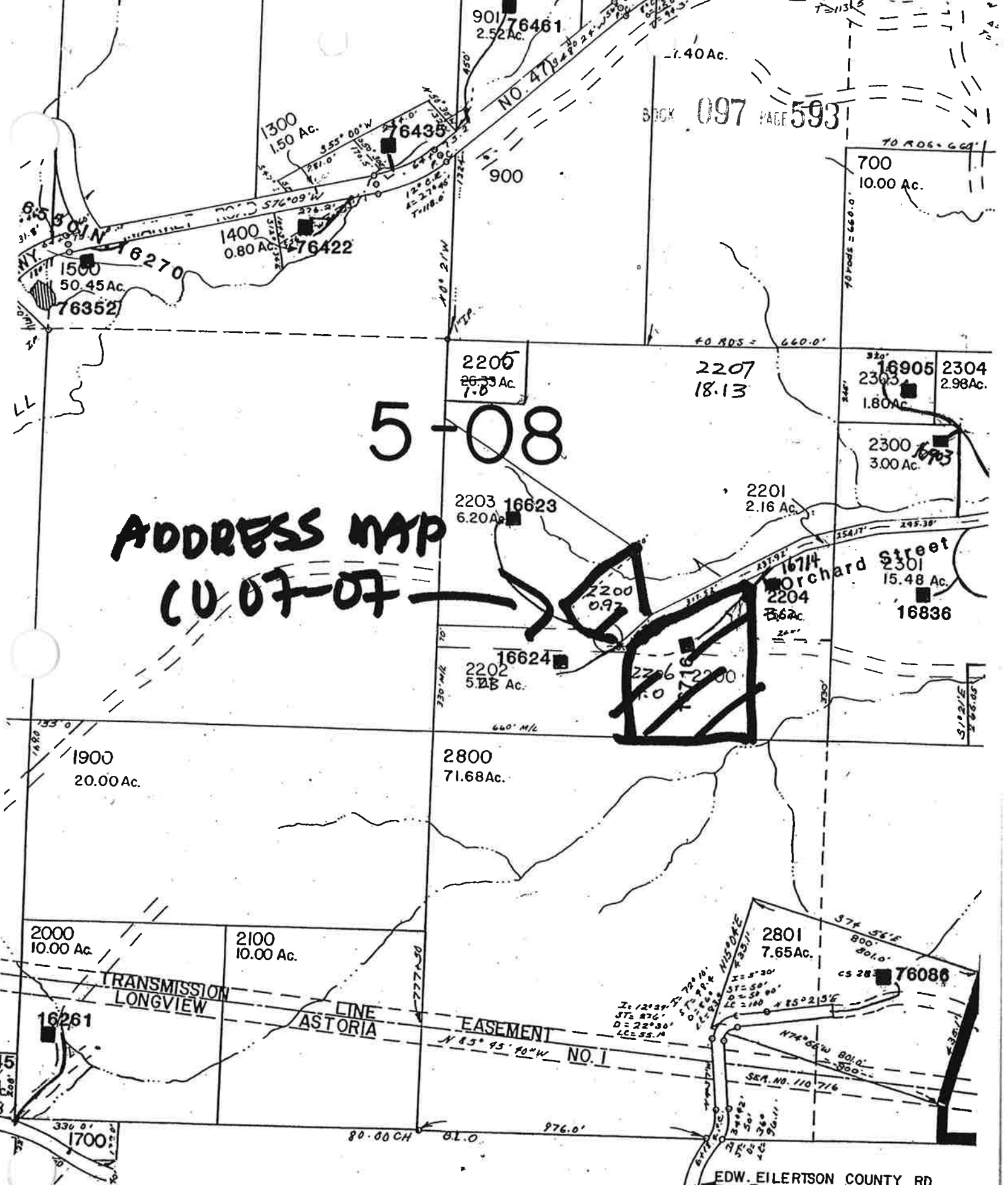
12-11-06
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vicinity map
CUU-04



WASHAKIA CO.
COMPTON CO.

097 592



5-08
ADDRESS MAP
CU 07-07

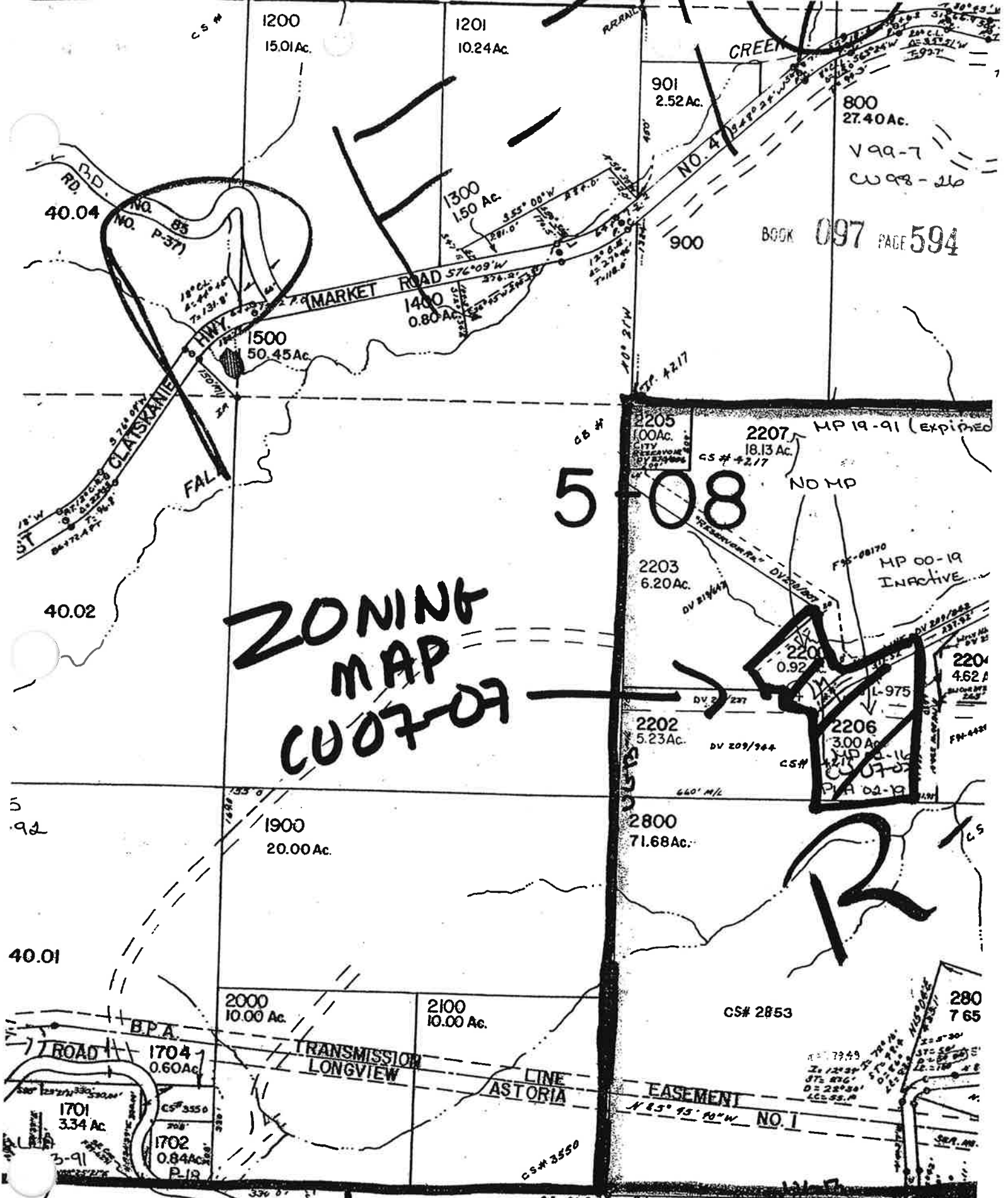
BOOK 097 PAGE 593

SEE MAP 7 4 18 1

SEE MAP

MAP 7 4 18

P. 139



**ZONING
MAP
CU07-07**

5-08

R

BOOK 097 PAGE 594

CS# B-159

-76 SEE MAP 7 4 18 1 2

CONDITIONAL USE PERMIT APPLICATION
Home OccupationBOOK 097 PAGE 595TYPE: Type I X Type IIAPPLICANT: Name: Michael ClarkMailing address: PO 373Clatskanie

City

OR

State

97016

Zip Code

Phone No.: Office 503-467-8600 Home 728-3698Are you the X property owner? owner's agent?PROPERTY OWNER: X same as above, OR:Name: PL 206 - Jennifer S. ClarkMailing Address:

City

State

Zip Code

Phone No.: Office Home PROPERTY ADDRESS: 16716 Orchard St.Clatskanie

City

OR

State

97016

Zip Code

TAX ACCOUNT NO.: 7407-000-02200 Acres: 0.92 Zoning: R-107407-000-02206 Acres: 3.00 Zoning: R-10 Acres: Zoning:

PRESENT USES: (farm pasture, forest, residential, etc.)

Use:

Residential

Approx. Acres

1Forest2.92

Total acres (must agree with above):

3.92

File No. CU 07-07

WATER SUPPLY: Private well.

Is the well installed? Yes No

 X Community system.

Name City of Clatskanie

METHOD OF SEWAGE DISPOSAL:

 Community Sewer. Name

 Not applicable.

 X Septic System.

If Septic, does the subject property already have a system? X Yes No

If no, is the property approved for a Septic System? Yes No

EMPLOYEES: For any business, how many expected full or part-time employees will you have, including yourself and family members: 2

CONTIGUOUS PROPERTY: List all other properties you own which have boundary lines touching this property:

Tax Account No.	Acres	Co-owners (if any)
<u>7407-000-02200</u>	<u>.92</u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

ACCESS CONSULTATION: The applicant has consulted with the local Rural Fire Protection District regarding emergency apparatus access.

Fire Official's Signature: Richard C. [Signature] Date: 8/29/06

CERTIFICATION:

I hereby certify that all of the above statements, and all other documents submitted, are accurate and true to the best of my belief and knowledge.

Date: 8/3/06 Signature: [Signature]

+++++
Planning Department Use Only

Date Rec'd. 8/30/06 Hearing Date:

Receipt No. 53203 ch # 1049 Or: Administrative

Zoning: Staff Member:

Previous Land Use Actions:

1. New Uses: What new uses will occur on the property if this Conditional Use permit is approved? Describe your project.

Light duty utility trailer manufacturing. Production of about 4-5 trailers per week is anticipated production. This process includes the following procedures.

- Offloading of materials once a week on two different trucks. These trucks are approximately the size of a UPS truck.
- Parts are moved to racks inside the building.
- A welder will wire feed weld all parts together per specifications on pre-built jigs.
- The completed trailer exits the shop and gets pressure washed to remove dirt and grime.
- If the weather is pleasant the trailer remains outside to air dry, otherwise, it returns to the shop.
- The trailer gets painted in an interior paint booth with industry typical exhaust features in place with filter media installed to remove particulates. Approximately 6 hours per week of paint time is needed.
- After 12 hours of drying the trailer gets 12 volt wiring and stickers and then a wood deck is installed. The average trailer takes 50 fasteners in the floor, each requiring a 7/32" hole to be drilled. This takes approximately $\frac{1}{2}$ an hour. If weather is permitting this process takes place outdoors, however, in the northwest the majority of the time the work is performed indoors.
- When 10 trailers are built they all ship out on a semi-truck to a dealership in Oregon or Washington. I do not sell retail. No retail traffic comes to this location.

2. Suitability: Why is the property suitable for this use (considering lot size, shape and location, access and roads, natural features and topography, existing improvements, etc.)?

I built a 1200 sq ft county permitted shop on my land specifically planned for this work. This sight is ideal for many reasons.

- A small business of this type could not afford commercial rent of a space that allowed for welding and paint and parking lot space. This fact alone would prevent this business from existing.
- I do not need a retail location due to the fact that I am a dealer-based manufacturer and would never consider competing with my dealers by selling to the public.

- I'm surrounded by trees, except for a driveway opening of about 20' of road frontage. This hides whatever items I may have sitting on the property and assists greatly with security without the added expense of a fence. In addition, the foliage provided a natural sound barrier.
- One of the benefits of living in a rural environment, is there are less neighbors to disturb. The few neighbors that are in the area often form a natural security perimeter and look out for each other's interests in a tight community of understanding and cooperation.

3. Compatibility: How will the use be compatible with surrounding uses?

I spent thousands of dollars more than I had to on the construction of the building. I did this to see to it that everything looked residential in nature. The building is wood framed with lap siding and boxed soffits and architectural roofing. I even built a wood chase around the metal exhaust stack of the paint booth to hide any industrial look. I consider this business temporary at this location and intend to turn the property into a guesthouse in late 2007.

4. Impact: What impact will the proposed use have on existing public facilities, or on your neighbors' use of their land? Why?

Less than five vehicles per week come to the shop. If I were to find employment off sight I would drive up and down the road at least 10 times per week. Additional road traffic is negligible. The road is an un-maintained county road, the residence of the road maintain this area. As a cost I have historically done my part in the three years I've lived here.

I can see no impact to my few neighbors and how they use their land.

5. Hazards: Does the proposed use create any hazardous conditions or use any poisonous materials? Please describe them.

We do paint, approximately 6 hours per week. The paint booth has a filter media system installed. If the existing system is not sufficient to remove any unpleasant scents from the air, my paint vendor has many other options that have been successfully installed in other neighborhood environments. With their help, as well as code guidance from County Land Development, I'm sure we can terminate any and all ill effects the paint booth may generate.

Including the paint booth, there are no "hazardous" materials being used.

Addressing Section 1503: Columbia County Zoning Ordinance BOOK 097 PAGE 599

To the best of my understanding, I meet all requirements of County Zoning Ordinances.

- I have a legally permitted and constructed 1200 sq ft building that meets all building codes and set backs.
- If I had to drive to and from work each day, I would generate more road traffic than the business causes per week.
- I built a residential style building that contributes to the property values in the area. (This, instead of a much cheaper steel pole building.)
- The vast majority of our work is welding. This generates very little noise.
- The paint booth can be modified to any level necessary to meet whatever requirements put forth.
- The only work that must occur outdoors is the washing of the trailers. This constitutes less than 2 $\frac{1}{2}$ hours per week and is no louder than a washing my car or truck.
- On occasion, if weather is permitting, which is rare, we will install the wood decks in the trailers out doors. This process is no louder than that of a lawn mower or weed eater. This process is less than 2 hours per week
- No hazardous materials are in use.

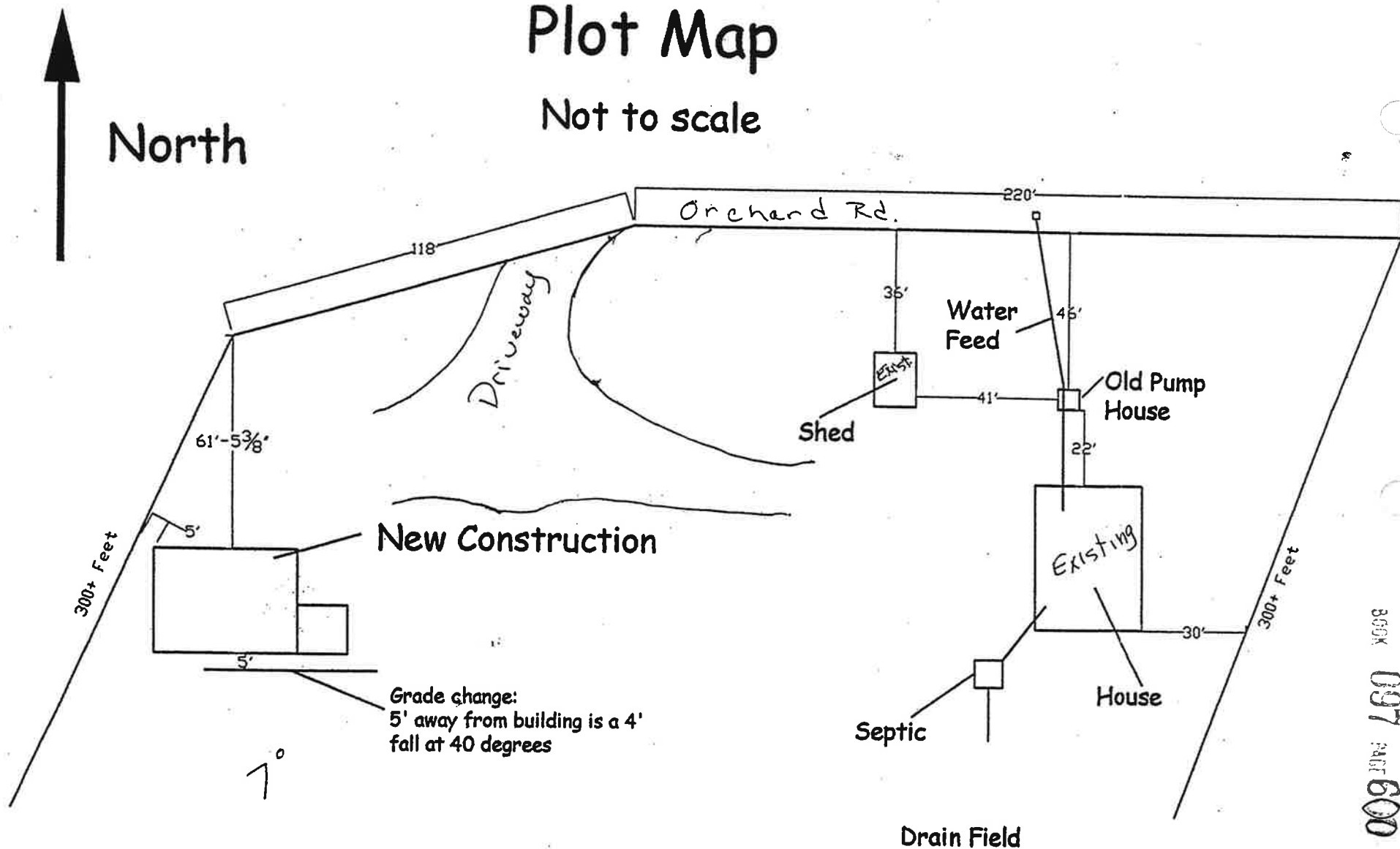
This business is good for my family, as well as generating many thousands of dollars worth of sales per month to local suppliers and retailers. This bolsters the overall economy of our county.

CU 07-07

Plot Map

Not to scale

North



**Columbia County Road Department**

1054 Oregon Street, St. Helens, OR 97051

Dave Hill, Public Works Director

Ph: (503) 366-3964 Fax: 397-7215

e-mail: hilld@co.columbia.or.us

to: LDS
from: Dave Hill, Public Works Director
date: April 3, 2007
subject: Mike Clark, CU 07-07, Orchard Street

Per our discussion yesterday, the following is a list of improvements required by the Road Department for improvements to Orchard Street as a condition of home occupation for Mike Clark:

1. Construct 3 turnouts at locations as to be determined and to the extent feasible within the existing limits of shoulder and right-of-way. The turnout construction will not include excavation into the hillside or involve any significant fill, but will include excavating the existing shoulder and perhaps using existing driveway access locations.
2. Construct a ditch along the cutslope of the roadway to improve drainage, and cross culverts at locations to be determined. Obtain a utility locate prior to any excavation.
3. Obtain a permit from the Road Department to include a schematic for the improvements.