

46001

BEFORE THE HEARINGS OFFICER  
KLAMATH COUNTY, OREGON

In the Matter of Request for	)	
Conditional Use Permit 2-85	)	Klamath County Planning
for Donald and Jean Potter,	)	Findings of Fact and Order
Applicants.	)	

A hearing was held on this matter on February 7, 1985, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Jim Spindor. The applicants were present. The Klamath County Planning Department was represented by Jonathan Chudnoff. The Hearings Reporter was Judy Whitaker.

Evidence was presented on behalf of the Department and on behalf of the applicants. There were no adjacent property owners present.

The following exhibits were offered, received, and made a part of the record:

Klamath County Exhibit A, Staff Report  
Klamath County Exhibit B, Partition Map  
Klamath County Exhibit C, Assessor's Map  
Klamath County Exhibit D, Air Photograph  
Klamath County Exhibit E, Flood Plain Map

The hearing was then closed, and based upon the evidence submitted at the hearing, the Hearings Officer made the following Conclusions of Law:

///

///

85 FEB 19 PM 2 22

1 CONCLUSIONS OF LAW

2437

2 1. The proposed use is conditionally permitted in the  
3 zone within which it is proposed to be located.

4 2. The location, size, design, and operating character-  
5 istics of the proposed use are in conformance with the Klamath  
6 County Comprehensive Plan.

7 3. The location, size, design, and operating characteris-  
8 tics of the proposed use will be compatible with and will not  
9 have a significant adverse effect on the appropriate development  
10 and use of abutting property and the surrounding neighborhood.

11 4. The granting of this conditional use permit is  
12 consistent with the goals of the L.C.D.C.

13 5. The requirements of Section 51.021 with regard to non-  
14 forest uses are met in that:

15 (a) The use is compatible with forest uses;

16 (b) The use does not interfere seriously with  
17 accepted forestry practices on adjacent lands  
18 devoted to forest use;

19 (c) The use does not materially alter the stability  
20 of the overall land use pattern of the area;

21 (d) The use will be situated on land generally  
22 unsuitable for the production of forest crops and  
23 livestock;

24 (e) The use considers forest site productivity and  
25 minimizes the loss of productive forest lands;

26 (f) The use meets the standards relating to the  
27 availability of fire protection as set forth in

28 ///

1 Article 69 of this code and other rural services,  
2 and will not overtax those services.

3 6. This conditional use permit is granted subject to the  
4 following conditions:

5 (a) Both buildings must comply with Section 52.005  
6 regarding flood hazardous area.

7 (b) Both buildings must comply with Section 62.007  
8 regarding riparian setback standards.

9 (c) Both buildings shall be limited to the wooded  
10 area at the northeast side of the property.

11 (d) Applicant shall obtain approval from the Klamath  
12 County Health Department for a septic system.

13 FINDINGS OF FACT:

14 The requested use has been granted with conditions based  
15 on the following findings of fact:

16 1. This request is to allow two non-forest homesites on  
17 a 13-acre parcel in the FR zone. The Sprague River forms the  
18 property's eastern and southern boundaries, and the Sprague River  
19 Highway is a short distance to the north.

20 2. Most of the property is within the Sprague River flood  
21 plain, with a wooded knoll in the northeast corner suitable for  
22 homesites. The flood zone area, about three-fourths of the  
23 property, does not support trees and cannot be used for homes.  
24 This portion of the property will remain in its present open state.

25 3. The surrounding land is mostly national forest, but  
26 rural homesites and subdivisions are strung out along the highway  
27 (see Exhibit "C"; these areas are shaded in pencil). Across the  
28 Sprague River to the east are a grocery store, tavern, and

1 campground formerly owned by the applicant. A vacant, flood  
2 plain tract owned by the YMCA is to the west.

3 4. The property is isolated from forest land by the  
4 river and highway, and most of it is in the flood plain and  
5 cannot support forest uses. The wooded portion of the property  
6 is not more than three acres.

7 5. The property is not farmable due to its small size  
8 and the flood hazard. There are no adjacent farm operations to  
9 which this parcel could be joined.

10 6. The property is within a low/medium density deer  
11 winter range and the Sprague River is a Class I stream, a  
12 significant fish habitat and recreational stream. The Oregon  
13 Department of Fish and Wildlife has been notified of this  
14 proposal and has submitted no objections. The river is under  
15 consideration for a scenic designation and homes should be out  
16 of sight in the trees.

17 7. Septic systems would be subject to review and approval  
18 by the Klamath County Health Department.

19 8. The property is in a high fire hazard area; fire  
20 protection is available from Chiloquin, 12 miles west, and  
21 Sprague River, 13 miles east. Most of the property is in the  
22 flood plain and the development will have to comply with the  
23 flood hazard area requirements.

24 9. No one testified in opposition to the granting of  
25 this permit and no evidence was presented that there would be  
26 any adverse effect to the abutting property or the surrounding  
27 neighborhood by the granting of this permit.

28 The Hearings Officer, based on the foregoing Findings of



1 Fact, accordingly orders as follows:

2 That real property described as:

3 "Being generally located on the south side of  
4 Sprague River Highway, 12 miles east of Chiloquin,  
5 and more particularly described as being located  
6 in that portion of the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 5,  
7 Township 35, Range 9, lying north of the Sprague  
8 River,"

9 is hereby conditionally granted a conditional use permit in  
10 accordance with the terms of the Klamath County Zoning  
11 Ordinance No. 45.2, and, henceforth, will be allowed to  
12 establish two non-forest homesites in the FR (Forest/Range)  
13 zone.

14 Entered at Klamath Falls, Oregon, this 19<sup>th</sup> day of  
15 February, 1985.

KLAMATH COUNTY HEARINGS DIVISION

*Jim Spindor*

Jim Spindor, Hearings Officer

26 Return: Commissioners Journal

28 C.U.P. 2-85  
Page 5

STATE OF OREGON: COUNTY OF KLAMATH:ss  
I hereby certify that the within instrument was received and filed for  
record on the 19th day of February A.D., 19 85 at 2:22 o'clock P M,  
and duly recorded in Vol M85, of Deeds on page 2436

EVELYN BIEHN, COUNTY CLERK  
by: *Ann Smith*, Deputy

Fee: \$ None