

## BEFORE THE HEARINGS OFFICER

## KLAMATH COUNTY, OREGON

In the Matter of Request for )  
Renewal of Conditional Use Permit ) Klamath County Planning  
No. 24-85 for Roger W. and Carolyn ) Findings of Fact and Order  
Peters )  
\_\_\_\_\_ )

A hearing was held on this matter on May 15, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Bradford J. Aspell. The applicant was present. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercaft.

Evidence was presented on behalf of the Department and on behalf of the applicant. There were 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, Plot Plan

Klamath County Exhibit C, Assessor's Map

Klamath County Exhibit D, Photo

Klamath County Exhibit E, Letters of Support from neighbors

Klamath County Exhibit F, Pictures

Klamath County Exhibit G, Letter from Ron Voight

Klamath County Exhibit H, Letter from Thomas Neal

Klamath County Exhibit I, Petition from Neighbors Opposed

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

1 Findings of Fact:

2 FINDINGS OF FACT:

3 On June 20, 1985, the undersigned as Hearings Officer  
4 issued a Conditional Use Permit for home occupation to Roger W.  
5 Peters and Carolyn J. Peters to operate a commercial firewood  
6 business from his residential real property, with conditions.

7 2. Section 85.004 of the Land Development Code provides  
8 that the Planning Director shall review the Conditional Use  
9 Permit allowing the home occupation every 12 months following  
10 the date the permit was issued to determine compliance with  
11 Section 85.001 through 85.005. Based upon receipt of four  
12 complaints from the most affected adjacent property owners, the  
13 Planning Director set the application for rehearing.

14 3. Applicable provisions of this application include the  
15 Klamath County Comprehensive Land Use Plan, Klamath County Land  
16 Development Code Section 51.004 (Rural), Land Development Code  
17 Article 85.001 et. seq. (Home Occupations), and Land Development  
18 Code Section 44.003 (Review Criteria - Conditional Use Permit).

19 4. The Hearings Officer finds of the eight conditions for  
20 approval that applicant has complied with seven of the eight  
21 requirements save and except his failure to fence the westerly  
22 boundary of the property where it faces McLaughlin Lane and  
23 the entire southerly line of the property.

24 5. The Hearings Officer finds from the testimony adduced  
25 at hearing that while certain adjacent neighbors are not  
26 disturbed by the subject business, that adjacent property owners  
27 primarily to the south and west were adversely affected by one  
28 of two conditions:

1 a. travel of heavy log trucks on McLaughlin Lane  
2 and the adverse effect such equipment would have  
3 on the cindered road as maintained by the  
4 Road Improvement District serving the subject  
5 property; and

6 b. applicant's use of a chainsaw on the subject  
7 property to cut the firewood into rounds.

8 6. The applicant testified at hearing that, based upon  
9 objections of his neighbors and adjacent property owners, that  
10 he would voluntarily restrict his home occupation in the  
11 following particulars:

12 a. He will agree not to deliver uncut logs to the  
13 subject property in log trucks;

14 b. He will not operate a chainsaw on the premises for  
15 purposes of cutting the firewood into rounds.

16 7. The Hearings Officer finds from the testimony adduced  
17 at hearing that the use of chainsaws for purposes of commercial  
18 wood cutting in a wooded rural residential setting primarily  
19 selected by property owners because of seclusion and privacy  
20 constitutes an unreasonable and unwarranted interference upon  
21 their private rights. Accordingly, the Hearings Officer finds  
22 that Section 44.003(C), Review Criteria, cannot be met as the  
23 use of the subject property will have significant adverse  
24 effects upon adjacent properties without conditions permitted  
25 pursuant to Section 44.004(F).

26 Accordingly, the Hearings Officer hereby amends and adds the  
27 following additional enumerated conditions:

28 j. Applicant shall deliver all uncut logs to a suitable  
location, appropriately zoned and designated and shall not have  
log trucks delivering logs to the subject property.

k. Applicant shall cut all firewood on other than the

1 subject property and shall not operate a chainsaw on the  
2 property in conjunction with the cutting of rounds of wood (save  
3 and except very limited personal use).

4 8. The Hearings Officer further finds that condition "a."  
5 as applied herein shall be amended so as to delete the  
6 requirement that the applicant fence the westerly boundary, or  
7 front of the property facing McLaughlin Lane, as unnecessary to  
8 protect the public, health, safety, welfare, and convenience.

9 9. Based upon the Findings of Fact and Conclusions of Law,  
10 the Hearings Officer readopts and republishes the order and  
11 Conditional Use Permit application 24-85 as amended herein.

12 Based upon the foregoing Findings of Fact, the Hearings  
13 Officer makes the following Conclusions of Law:

14 CONCLUSIONS OF LAW:

15 1. That the use is conditionally permitted in the zone in  
16 which it is proposed to be located.

17 2. That the location, size, design, and operating charac-  
18 teristics of the proposed use are in conformance with the  
19 Klamath County Comprehensive Plan.

20 3. That the location, size, design, and operating charc-  
21 teristics of the proposed development will be compatible with  
22 and will not have significant adverse effects on the appropriate  
23 development and use of abutting properties and the surrounding  
24 neighborhood.

25 The Hearings Officer, based on the foregoing, according to  
26 orders as follows:

27 That real property described as

28 "Being generally located at 9011 McLaughlin Lane, Keno,

10532


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and more particularly described as Lot 3, Block 2,  
Forest Green, Klamath County, Oregon,"

is hereby conditionally granted a Conditional Use Permit in  
accordance with the terms of the  
No. 45.2, and, henceforth, will be allowed a home occupation in  
the R-1 (Rural, 1 acre minimum) zone.

Entered at Klamath Falls, Oregon, this 16 Day of  
June, 1986.

KLAMATH COUNTY HEARINGS DIVISION

  
Bradford D. Aspell  
Hearings Officer

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_ the 18th day  
of June A.D., 19 86 at 9:04 o'clock A M., and duly recorded in Vol. M86  
of \_\_\_\_\_ Decis \_\_\_\_\_ on Page 10528

Evelyn Biehn, County Clerk  
By Wm. Smith

FEE

NONE

Return: Commissioners Journal