

31458

Vol. M83 Page 21127

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a
REQUEST FOR A CONDITIONAL
USE PERMIT

NO. 32-83

FINDINGS OF FACT, DECISION
AND ORDER

for

RICHARD KOPCZAK

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on December 1 1983, at 1:30 p.m. in the Klamath County Commissioners' Hearing Room. The hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The applicant was present at the hearing, and the Planning Department was represented by Jonathan Chudnoff. The following exhibits were marked and entered into evidence: Exhibits "A" through "C".

The Assistant Hearings Officer, after reviewing the evidence presented makes the following findings of fact, and decision:

FINDINGS OF FACT:

1) The subject property is owned by Richard Kopczak. The applicant is requesting this Conditional Use Permit to allow a non-farm homesite to be constructed in an A1 zone. The property is generally located approximately 1/4 mile East of Highway 97, 3/4 mile south of the Chiloquin Junction. The legal description is Tax Lot 104, located in Government Lot 1,

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83 DEC 12 AM 9 05

1 Section 9, Township 35, Range 7, Klamath County, Oregon.

2 2) The zone designation is AU, the plan designation is
3 agriculture, and the adjacent and/or surrounding zoning is
4 AU and EFU.

5 3) The property is 664' x 329' consisting of 5 acres,
6 rectangular in shape, with pasture and scattered trees. The topo-
7 graphy consists of a gradual slope down to the East. General
8 drainage is easterly to the Williamson River. The soil class
9 is IV and the timber site productivity rating is V.

10 4) Access to the property is provided over private
11 roads from Highway 97.

12 5) Sewer is provided by septic system and water by
13 well. The property is served by Pacific Power and Light and
14 Beaver State Telephone.

15 6) No adverse comments have been received by any
16 of the surrounding property owners.

17 7) The size of the parcel and the topography of the
18 land make it impossible to farm or otherwise use in an
19 agriculturally productive manner.

20 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

21 1) Klamath County Development Code Section 44.003
22 sets forth the criteria for consideration in the application
23 of a conditional use permit:

24 A. That the use is conditionally permitted in
25 the zone in which it is proposed.

26 B. That the location, size, design and operating

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1 characteristics of the proposed uses is in conformance with the
2 Klamath County Comprehensive Plan.

3 C. That the location, size, design and operating
4 characteristics of the proposed development will be compatible
5 with, and will not adversely effect, the livability or appropriate
6 development of abutting properties in the surrounding neighbor-
7 hood. Consideration shall be given to the harmony in scale,
8 bulk, coverage and density; to the availability of civic
9 facilities, and utilities; to harmful effects, if any, upon
10 desirable neighborhood character; to the generation of traffic
11 and the capacity of surrounding streets and to other
12 relevant impact of the development.

13 D. That the location, design and site planning
14 of the proposed development will provide a convenient and
15 functional living, working, shopping or civic environment and
16 will be as attractive as the nature of the use and its location
17 in this setting warrant.

18 2) Klamath County Code Section 44.001 sets forth
19 the general purpose of Article 44, Conditional Use Permit, as
20 follows: The purpose of the Conditional Use Permit is to provide
21 a mechanism whereby uses which may be suitable only in certain
22 locations or only if designed or operated in a particular
23 manner may be allowed within the basic zone designations.

24 3) ORS 197.175 requires all zoning and related
25 ordinances adopted by the County be in conformance with the
26 State-wide Planning Goals.

1 4) Non-farm dwellings in an AU zone come under
2 Paragraph D) of Section 51.018 of Ordinance 48, Land Development
3 Code, Comprehensive Plan for Klamath County, Oregon, as follows:

4 D) Non-Farm Dwellings: Single-family dwellings
5 not in conjunction with farm use may be established subject to
6 a Conditional Use Permit and a finding that each such dwelling:

7 1. Is compatible with farm use as defined
8 in this Code and consistent with the agricultural land use
9 policy adopted by the legislative assembly in ORS 215.243;

10 2. Does not interfere seriously with accepted
11 farming practices on adjacent lands devoted to farm use;

12 3. Does not materially alter the stability
13 of the overall land use pattern of the area;

14 4. Is situated upon generally unsuitable
15 land for the production of farm crops and livestock, considering
16 the terrain, adverse soil or land conditions, drainage and
17 flooding, vegetation, location, and size of the tract; and

18 5. Complies with such other conditions
19 as the Board of County Commissioners or its designate considers
20 necessary.

21 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

22 1) The proposed use has a location, size, design and
23 operating characteristics that are in conformance with the
24 Klamath County Comprehensive Plan.

25 2) The location, size, design and operating charact-
26 eristics of the proposed development will be compatible with,

1 and will not adversely effect, the livability or the appropriate
2 development of abutting properties and the surrounding neigh-
3 borhood.

4 3) The proposed use will be in harmony in scale, bulk,
5 coverage and density with the existing uses. No harmful effects
6 will be made upon the desirable neighborhood character. No
7 additional generation of traffic beyond the capacity of the
8 surrounding streets will be created.

9 4) The location design, and site planning of the
10 proposed development will provide for a convenient and functional
11 living environment and will be as attractive as the nature of
12 the use and its location in this setting warrant.

13 5) The non-farm dwelling is compatible with the farm
14 use as defined within this Code and is consistent with the
15 agricultural land use policy adopted by the legislative assembly
16 under ORS 215.243.

17 6) The non-farm dwelling does not interfere seriously
18 with accepted farming practices on adjacent lands devoted to
19 farm use.

20 7) The non-farm dwelling does not materially alter
21 the stability of the overall land use pattern in the area.

22 8) The non-farm dwelling is situated upon generally
23 unsuitable land for the production of farm products and live-
24 stock, considering the terrain, adverse soil, poor land
25 conditions, drainage and flooding, vegetation, and location
26 and size of the tract.

1 STATE-WIDE PLANNING GOALS AND CRITERIA:

2 See Exhibit "AA" attached hereto and incorporated
3 by this reference.

4 CONCLUSIONS OF LAW AND DECISION:

5 1) This request for a Conditional Use Permit on the
6 subject property meets all applicable Klamath County Development
7 Code criteria and policies governing such.

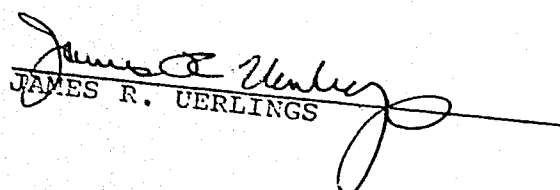
8 2) This request for a Conditional Use Permit is
9 consistent with, and complies with, all the applicable State-
10 wide Planning Goals and review criteria.

11 3) The following condition is deemed necessary to
12 protect the health safety and welfare of the citizens of
13 Klamath County:

14 A. That the applicant follow the plot plan as
15 submitted.

16 THEREFORE it is hereby ordered that the request for
17 a Conditional Use Permit by the applicant on the subject
18 property herein described is hereby granted subject to the
19 condition as set forth above.

20 DATED this 7 day of December, 1983.

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JAMES R. UERLINGS

COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

21133

GOAL NO. 1 - Citizen Involvement

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

1. "The County shall provide for continued citizen involvement opportunities."

State Goal Issues:

A public hearing on this matter has been set for December 1, 1983 before the Hearings Officer. Notice has been sent to surrounding property owners, concerned public agencies and published in the Herald and News.

GOAL NO. 2 - Land Use Planning

- ☒ Complies ☐ Does not comply
☐ Complies with conditions
☐ Not applicable

Article 46
Major/Minor Partition
Section 46.003 Review Criteria

Relevant Policies:

	Complies	Does not Comply	N.A.
A -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

State Goal Issues:

The property is in the AU zone, which allows non-farm dwellings subject to the criteria of Section 51.018 D of the Land Development Code. The surrounding area consists for the most part of sparsely wooded small parcels. There appear to be no adjacent farm operations which would be adversely affected by this proposal.

GOAL NO. 3 - Agricultural Lands

21134

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

3. "Development on SCS Class I through IV soils shall be avoided except: A. When areas are small and surrounded by other areas of existing or potential development."

State Goal Issues:

The parcel is 5 acres in size and has similar small parcels to the west and south. The only commercial agricultural use is some pasture land to the north, owned by Knight. The grazing land has small parcels like the applicant's on three sides. The addition of a 1½ acre homesite would not be a significant change for the area.

GOAL NO. 4 - Forest Lands

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

1. "Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan."
2. "The County shall regulate development of non-forest uses in forested areas."

State Goal Issues:

The property and adjacent parcels have only a scattering of trees. The parcels are too small to be managed as part of a commercial forestry operation. There are no adjacent large-scale timber operations into which this land could merge.

GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

21135

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried scenic, historic, natural or wildlife resources on or adjacent to this property.

GOAL NO. 6 - Air Water and Land Resource Quality

- ☒ Complies ☐ Does not Comply
☐ Complies with Conditions
☐ Not applicable

Relevant Policies:

4. "Urban and rural residential use shall be designated only when approved sewage disposal alternatives have been identified."

State Goal Issues:

A septic system on the parcel to be created would be subject to the inspection and approval of the County Department of Health Services.

The additional home does not appear to significantly affect air, water or land resource quality, as the overall density of development would remain low.

GOAL NO. 7 - Natural Disaster and Hazards Act

21136

- ☒ Complies ☐ Does Not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

1. "The County shall consider site constraints in evaluating land use in fire hazard areas."

State Goal Issues:

The area has a moderate fire hazard rating. The property is within the Chiloquin/Agency Lake Fire District, with a station about 2 miles away in Chiloquin.

GOAL NO. 8 - Recreation Needs

- ☒ Complies ☐ Does Not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

Nearby recreational opportunities include the Williamson River, Spinks Park in Chiloquin, and Collier State Park.

GOAL NO. 9 - County Economy

21137

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

The granting of this Conditional Use Permit would provide small economic benefits through the placement or construction of a home. No long-term affects on County employment or the economy are apparent.

GOAL NO. 10 - Housing

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

4. "The County shall permit development of rural land for rural residential use on suitable lot sizes."

State Goal Issues:

The proposed CUP and subsequent partition would provide an additional rural homesite in the Chiloquin area.

GOAL NO. 11 - Public Facilities and Services

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

12. "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or planned in the area."

State Goal Issues:

Electrical and telephone services are available to the site. The property is within a fire protection district.
 This level of services appears to be adequate for the rural residential use proposed.

GOAL NO. 12 - Transportation

- ☒ Complies ☐ Does not Comply
☐ Complies with conditions
☐ Not applicable

Relevant Policies:

State Goal Issues:

Access to the property is via private easement roads connecting with Highway 97, about 1/3 mile to the west. The road is cindered and is adequate for the additional traffic which may be created by an additional homesite.

GOAL NO. 13 - Energy Conservation

- ☒ Complies ☐ Does Not Comply
☐ Complies with conditions
☐ Not applicable

21139

Relevant Policies:

State Goal Issues:

Establishment of an additional homesite on this property would conserve energy by taking advantage of existing facilities (well, power, telephone).

GOAL NO. 14 - Urbanization

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

The property is outside of any urban or urbanizing area.

STATE OF OREGON: COUNTY OF KLAMATH: ss
I hereby certify that the within instrument was received and filed for
record on the 12th day of Dec. A.D., 19 83 at 9:05 o'clock A.M.,
and duly recorded in Vol. M83, of Deeds on page 21127.

Fee \$ None

EVELYN BIEHN, COUNTY CLERK

by *[Signature]* deputy