Vol. M. Page 21127 BEFORE THE HEARINGS OFFICER FOR KLAMATH COUNTY, OREGON In the Matter of a NO. 32-83 REQUEST FOR A CONDITIONAL USE PERMIT FINDINGS OF FACT, DECISION

RICHARD KOPCZAK

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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".

AND ORDER

The Assistant Hearings Officer, after reviewing the evidence presented makes the following findings of fact, 18 19 and decision:

FINDINGS OF FACT: 20

1) The subject property is owned by Richard Kopczak. The applicant is requesting this Conditional Use Permit to 22 allow a non-farm homesite to be constructed in an AU zone. 23 The property is generally located approximately ½ mile East of 24 Highway 97, 3/4 mile south of the Chiloquin Junction. 25 legal description is Tax Lot 104, located in Government Lot 1, 26 FINDINGS OF FACT DECISION AND ORDER

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21128 Section 9, Township 35 Range 7, Klamath County, Oregon. 1 2 The zone designation is AU, the plan designation is agriculture, and the adjacent and/or surrounding zoning is 3 AU and EFU. 4 5 The property is 664' x 329' consisting of 5 acres, 3) rectangular in shape, with pasture and scattered trees. The topo-6 graphy consists of a gradual slope down to the East. General 7 drainage is easterly to the Williamson River. The soil class 8 is IV and the timber site productivity rating is V. 9 10 4) Access to the property is provided over private roads from Highway 97. 11 12 5) Sewer is provided by septic system and water by 13 well. The property is served by Pacific Power and Light and Beaver State Telephone. 14 15 6) No adverse comments have been received by any of the surrounding property owners. 16 17 7) The size of the parcel and the topography of the land make it impossible to farm or otherwise use in an 18 agriculturally productive manner. 19 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA: 20 21 1) Klamath County Development Code Section 44.003 sets forth the criteria for consideration in the application 22 of a conditional use permit: 23 24 A. That the use is conditionally permitted in the zone in which it is proposed. 25 26 B. That the location size design and operating FINDINGS OF FACT, DECISION AND ORDER

characteristics of the proposed uses is in conformance with the Klamath County Comprehensive Plan. 2 3 C. That the location, size, design and operating characteristics of the proposed development will be compatible 4 with, and will not adversely effect, the livability or appropriate 5 development of abutting properties in the surrounding neighborhood. Consideration shall be given to the harmony in scale, bulk, coverage and density; to the availability of civic facilities, and utilities; to harmful effects, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets and to other relevant impact of the development. D. That the location, design and site planning

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of the proposed development will provide a convenient and functional living, working, shopping or civic environment and will be as attractive as the nature of the use and its location

2) Klamath County Code Section 44.001 sets forth the general purpose of Article 44, Conditional Use Permit, as 19 follows: The purpose of the Conditional Use Permit is to provide 20 a mechanism whereby uses which may be suitable only in certain 21 locations or only if designed or operated in a particular 22 manner may be allowed within the basic zone designations. 3) ORS 197.175 requires all zoning and related ordinances adopted by the County be in conformance with the FINDINGS OF FACT DECISION AND ORDER Page 3.

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l	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) <u>Non-Farm Dwellings</u> : 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	l. 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	l) 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,
	FINDINGS OF FACT. DECISION AND ORDER Page 4.

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and will not adversely effect, the livability or the appropriate development of abutting properties and the surrounding neighborhood.

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

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

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

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

7) The non-farm dwelling does not materially alter the stability of the overall land use pattern in the area. 8) The non-farm dwelling is situated upon generally unsuitable land for the production of farm products and livestock, considering the terrain, adverse soil, poor land conditions, drainage and flooding, vegetation and location and size of the tract.

FINDINGS OF FACT DECISION AND ORDER Page 5.

21132 1 STATE-WIDE PLANNING GOALS AND CRITERIA: 2 See Exhibit "AA" attached hereto and incorporated 3 by this reference. CONCLUSIONS OF LAW AND DECISION: 4 5 1) This request for a Conditional Use Permit on the subject property meets all applicable Klamath County Development 6 Code criteria and policies governing such. 7 8 2) This request for a Conditional Use Permit is consistent with, and complies with, all the applicable State-9 10 wide Planning Goals and review criteria. 11 3) The following condition is deemed necessary to protect the health safety and welfare of the citizens of 12 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 a Conditional Use Permit by the applicant on the subject 17 property herein described is hereby granted subject to the 18 condition as set forth above. 19 20 DATED this _____ day of December, 1983. 21 22 23 24 Ales R. VERLINGS FINDINGS OF FACT, DECISION AND ORDER

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$H \Box$ \Box \Box which allows non-farm dwellings $I \Box$ \Box subject to the criteria of Section $J \Box$ \Box 51.018 D of the Land Development $K \Box$ \Box Code.The surrounding area consists \Box \Box for the most part of sparsely wooded \Box \Box \Box small parcels.There appear to be no \Box \Box adjacent farm operations which would \Box \Box be adversely affected by this proposal. \Box	\mathbf{F}	
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GOAL NO. 3 - Agricultural Lands
Complies Does not Comply
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Complies with conditions
Not applicable
Relevant Policies:
of eviation When areas areas I through IV soils
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 has small parcels like the applicantly. The grazing has
pasture land to the only commercial agricultural use is some has small parcels like the applicant's on three sides many area.
of a 14 parcels like the applied by Knight. The use is some
area. area area area area area area area
of a 1½ acre homesite would not be a significant change for the GOAL NO. 4 - Forest Lands
Torest Lands
Complies Does not Comply
Complies with conditions
X Not applicable
Relevant Policies:
land use changest uses shall be a
1. "Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath Country
<pre>in Existing forest uses shall be protected unless proposed hensive Plan." 2. "The County shall need."</pre>
2. "The County shall regulate development of non-forest uses in
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State Corre
State Goal Issues:
The property and
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.
forestry operation. There are no adjacent large-scale timber
operations into which this land could merge.
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Exhibit: "
Exhibit "AA", Page 2.

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Page -7-GOAL NO. 5 - Open space, Scenic and Historic Areas, and Natural Resources 21135 Page Complies Does not Comply Complies with conditions X 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 X 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 would be subject to A septic system on the parcei to be created would be subject to the inspection and approval of the County Department of Health The additional home does not appear to significantly affect air, The additional home does not appear to significantly affect air, water or land resource quality, as the overall density of development would remain low. Exhibit "AA", Page 3.

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GOAL NO. 7 - Natural Disaster and Hazards Ar Complies Does Not Comply Complies with conditions 21136 Not applicable Relevant Policies: 1. "The County shall consider site constraints in evaluating land State Goal Issues: The area has a moderate fire hazard rating. The property is within the chiloguin // genery Lake Fire District with a station about 2 the Chiloquin/Agency Lake Fire District, With a station about 2 miles away in Chiloquin. GOAL NO. 8 - Recreation Needs X 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. Exhibit "AA", Page 4.

	Page -9- GOAL NO. 9 - County Economy
	GOAL NO. 9 - County Economy
	X Complies Does not Comply
	Complies with conditions
	Not applicable
	Relevant Policies:
	Actevalt 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.
 	are apparent.
·	GOAL NO. 10 - Housing
	X 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."
х	State Goal Issues:
	The proposed CUP and subsequent partition would provide an additional rural homesite in the Chiloquin area.
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	Exhibit "AA", Page 5.

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Page GOAL NO. 11 - Public Facilities and Services X Complies Does not Comply Complies with conditions [] Not applicable Relevant Policies: 21138 12. "Development proposals shall not be approved unless the types or planned in the area." State Goal Issues: State GOAL ISSUES: Electrical and telephone services are available to the site. The protection district. Electrical and telephone services are available property is within a fire protection district. This level of services appears to be adequate for the rural residential use proposed. 12. GOAL NO. 12 - Transportation X Complies Does not Comply Complies with conditions [] Not applicable Relevant Policies: State Goal Issues: Access to the property is via with Highway 97, about 1/3 mile to the west. The roads connecting and is adequate for the additional traffic which may be created by with Highway 97, about 1/3 mile to the west. The road is cindered an additional homesite. Exhibit "AA", Page 6.

Page -11-GÓAL NO. 13 - Energy Conservation X Complies Does Not Comply **(** Complies with conditions Not applicable 21139 Relevant Policies: State Goal Issues: Establishment of an additional homesite on this property would Establishment of an additional homesite on this property would conserve energy by taking advantage of existing facilities (well, -. .. GOAL NO. 14 - Urbanization Complies Does not Comply Complies with conditions X Not applicable Relevant Policies: State Goal Issues: The property is outside of any urban or urbanizing area. STATE OF OREGON: COUNTY OF KLAMATH: SS STATE OF OREGON: COUNTY OF KLAMATH: SS I hereby certify that the within instrument was received and filed for record on the <u>12th</u> day of <u>Dec.</u> A.D., <u>19</u><u>83</u> at <u>9:05</u> o'clocl <u>1</u>M, and duly recorded in Vol <u>M83</u>, of <u>Deeds</u> on page <u>21127</u>. record on the <u>12th</u> day of <u>Dec.</u> and duly recorded in Vol <u>M83</u> Fee \$____None EVELYN BIEHN, COUNTY CLERK by Ram £0, _deputy