

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for)
 Conditional Use Permit 16-86 for) Klamath County Planning
 Lana and Danny Hickey) Findings of Fact and Order

A hearing was held on this matter on April 3, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Brad Aspell.

The applicant was represented by Danny Hickey. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercajt.

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

Klamath County Exhibit C, Assessor's Map

Klamath County Exhibit D, Pictures

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

FINDINGS OF FACT:

1. Applicants, Lana Hickey and Danny Hickey, are the owners of the subject property, situate on the Merrill-Malin Highway, which property comprises of a Portion of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of

85 MAY 20 AM 9 16

1 Section 10, Township 41 South, Range 11 East, Klamath County,
2 Oregon. The subject property bears Tax Account No. 4111-1000-400.
3 The subject property consists of approximately five acres, bor-
4 dered to the north and east by the U.S. Bureau of Reclamation "D"
5 Canal, to the west by the properties owned by Hickey Ranches, Inc.,
6 to the south by State Highway 50. The property is basically
7 wedge shape as shown by Exhibit "B". Exhibit "C", which proports
8 to show the subject property is incorrect in that the highlighted
9 area does not involve the property which is subject to this
10 application. The Hearings Officer further finds that this
11 application will be subject to a Minor Partition which is not a
12 part of this hearing. The property is designated as Forestry
13 in the Klamath County Comprehensive Plan, carries a zone desig-
14 nation of F/R (Forest/Range). The property is 570 frontage feet
15 on U.S. Highway 50 and is 216 feet deep at its deepest point.
16 The land is generally level with surface drainage from the north
17 to the south. Vegetation is generally mixed with orchard and
18 pasture to the east, and surrounding the house vegetation is
19 consistent with rural farm residential living. The layout of all
20 improvements is shown in the Site Plan marked as Exhibit "B".
21 2. Applicant seeks a Conditional Use Permit to sever the
22 subject property from the approximate 160 acre farm owned by
23 Hickey Ranches, Inc., and to own and occupy the residence as a
24 Non-Farm residence in the Forest/Range zone. Access to the
25 property is gained off State Highway 50. Soils are Class IV. No
26 timbersite productivity rating is available. Water is provided
27 by individual well. Sewage disposal is by individual septic tank.
28 Fire protection is provided by Merrill Fire District. Electricity

8587

1 is provided by Pacific Power & Light Company. The telephone
2 service is provided by Pacific Northwest Bell. The property is
3 located within the Merrill attendance area of the Klamath Falls
4 School District.

5 3. The Klamath County Planning Department staff recommends
6 approval as it believes that the application meets conditions
7 found within the Klamath County Land Development Code, Section
8 51.021(D). To sustain approval of the six enumerated criteria
9 of Klamath County Land Development Code, Section 51.021(D) (1-7)
10 must be met.

11 4. The subject property includes a house, garage, barn,
12 potato seller and a pasture and orchard. Excepting the 216 feet
13 to the west, the land is physically bounded by a fairly deep
14 irrigation canal and a major State highway. Retention of this
15 use separate and apart from the adjacent properties will do
16 nothing to adversely affect wildlife habitat and range land.
17 Review Criteria 51.021(d)(1) has been met.

18 Because the property is physically isolated by physical
19 boundaries, there is no access across the D Canal from the subject
20 property. Due to the fact that adjacent properties remain in the
21 same ownership of a corporation controlled by the applicants
22 herein, stability of the overall land use pattern in the area
23 will not be altered. Criteria 51.021(D)(2) has been satisfied.
24 6. Assuming that the property is properly zoned as F/R
25 (Forest/Range), which appears dubious, one must consider the
26 values of land to wildlife, habitat and range land as has been
27 discussed above. The property is already extensively developed
28 with improvements and has physical boundaries on all sides but

1 the west. The rather unique shape of the property, the limi-
2 tations imposed by physical boundaries make the land generally
3 unsuitable for forest, crops and livestock. Land Development
4 Code Criteria 51.021(D)(4) has been met.

5 7. The property has no rated timbersite productivity. The
6 Hearings Officer takes this to mean that timbersite productivity
7 is considered to be negligible. Land Development Code Criteria
8 51.021 (5) has been met.

9 8. The criteria of the Land Development Code, Article 69,
10 relate to fire safety and identified fire hazard areas. Subject
11 property is located within the Merrill Fire District of which
12 received notification of this proposal and made no comment. The
13 Hearings Officer concludes that fire protection can be met. Land
14 Development Code Criteria 51.021(6) has been met.

15 9. Based upon the findings above, the Hearings Officer
16 finds that use is conditionally permitted in the zone in which it
17 is proposed to be located pursuant to Land Development Code
18 44.003(A).

19 10. Location, size, design and operating characteristics of
20 the proposed use are in conformance with the Klamath County
21 Comprehensive Plan. In this regard the Hearings Officer finds
22 as follows:

- 23 A. Goal 1 (Citizen Involvement) has been met. Notice
24 was given to adjacent property owners, affected public
25 agencies, and published in the Herald and News. The Hearings
26 Officer finds that no additional public input was received.
27 B. Goal 2 (Land Use Planning) has been met in that the
28 use qualifies as a conditional use under Land Development

1 Code, Section 51.021(D).

2 C. Goal 3 (Agricultural Lands), Goal 5 (Open Spaces,
3 Scenic, Historic & Natural Resources Areas), Goal 7 (Natural
4 Disasters and Hazards), Goal 8 (Recreation Needs), Goal 9
5 (Economy of the State), Goal 11 (Public Facilities and
6 Services), Goal 12 (Transportation), Goal 13 (Energy
7 Conservation), Goal 14 (Urbanization) do not apply to this
8 application.

9 D. Goal 4 (Forest Lands) has been met. The Hearings
10 Officer finds that of the seven criteria for Forest/Range
11 lands, the first six criteria do not apply. Only criteria
12 seven, the need to protect other lands, seems to justify
13 designating the property as Forest/Range.

14 E. Goal 6 (Air, Water and Land Resource Quality) has
15 likewise been met as this is a low-density development
16 which will be required to comply with the rules of the
17 Department of Environmental Quality.

18 F. Goal 10 (Housing) has been met. No housing will be
19 lost by approval of this application.

20 11. The location, size, design and operating characteristics
21 of the proposed use are in conformance with the Klamath County
22 Comprehensive Plan. Land Development Code Section 44.003(B)
23 has been met.

24 12. Location, size, design and operating characteristics
25 of the proposed development will be compatible with and will not
26 have significant adverse effects upon appropriate development
27 and use of abutting properties in the surrounding neighborhood.
28 The Hearings Officer draws his conclusion primarily from the
C.U.P. 16-86/Hickey
Page 5

8590

1 following:

2 A. Unique geographical separation of the subject
3 property from other Forest/Range lands; the historical use
4 as a farm residence with accessory buildings.

5 B. It being abutted (on its only common border with
6 other properties) by Hickey Ranches Inc., the property owned
7 by a corporation controlled by the applicant herein.

8 C. Based upon the lack of adverse comment, criticism
9 from Planning Staff or adjacent property owners, the Hearings
10 Officer concludes that Land Development Code Section 44.003C
11 has been met.

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 charac-
21 teristics of the proposed development will be compatible with and
22 will not have significant adverse effects on the appropriate
23 development and use of abutting properties and the surrounding
24 neighborhood.

25 4. The location, size, design and operating
26 characteristics of the proposed development will be compatible
27 with and not have significant adverse effects upon appropriate
28 development and use of abutting properties in the surrounding

1 neighborhood.

8591

2 The Hearings Officer, based on the foregoing, accordingly
3 orders as follows:

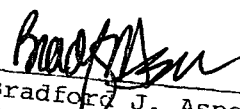
4 That real property described as

5 "Being generally located north of the Merrill-Malin Highway
6 and more particularly described as the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of
7 Section 10, Township 41 South, Range 11, Klamath County,
8 Oregon,"

9 is hereby granted a Conditional Use Permit in accordance with the
10 terms of the Klamath County Zoning Ordinance No. 45.2, and,
11 henceforth, will be allowed a residence in the F/R (Forest/Range)
12 zone.

13 Entered at Klamath Falls, Oregon, this 15th Day of
14 May, 1986.

15 KLAMATH COUNTY HEARINGS DIVISION

16 
17 Bradford J. Aspell
18 Hearings Officer

19
20
21
22
23
24
25
26
27
28
C.U.P. 16-86/Hickey
Page 7

STATE OF OREGON: COUNTY OF KLAMATH: SS.

Filed for record at request of _____
of _____ May A.D., 19 86 at 9:16 o'clock A M., and duly recorded in Vol. 20th day
of _____ Deeds on Page 8585 M86

FEE NONE

Return: Commissioners Journal

By Evelyn Biehn, County Clerk

