

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Violation 6-86)
Regarding Art Shimp) Klamath County Planning
Findings of Fact and Order

This matter having come on for hearing before the Klamath County Hearings Officer on the 3rd Day of April, 1986, pursuant to Citation 6-86, issued on the 28th Day of February, 1986. The respondent was Art Shimp. Klamath County was represented by J.K. Lundahl, Planning Department, and Ray La Marche, Klamath County Nuisance Abatement Officer. The Hearings Reporter was Janet Libercajt.

The hearing was called to order, Klamath County having presented evidence and rested, the respondent having presented evidence, the Hearings Officer having taken testimony from affected parties, Klamath County and the respondent having presented such rebuttal evidence as deemed necessary, and the hearing having been closed to further testimony. The Hearings Officer being fully advised in the facts, issues of the law, hereby issues the following Findings of Fact:

FINDINGS OF FACT:

1. The respondent, Art Shimp, is a tenant at 2223 Patterson Street, Klamath Falls, Oregon. The respondent is before the Hearings Officer on a citation alleging that on property designated Residential in the Klamath County Comprehensive Plan and RM (Medium-Density Residential) in the Klamath County Zoning Ordinance, that respondent is in violation of one or more of the following provisions of the Klamath County Land Development Code:

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- 1 1. A. Section 51.006(B); Keeping of large animals in
- 2 a zone which does not permit the use.
- 3 B. Section 51.006(B); Maintaining an auto wrecking
- 4 yard without County permit or State license.
- 5 C. Section 51.006(C); Keeping of small animals
- 6 without a Conditional Use Permit.

7 2. The Hearings Officer finds the named person is a tenant
8 of the above-described property, that he has kept two horses, as
9 many as three pigs, chickens, ducks and rabbits on the subject
10 property. The Hearings Officer further finds under Klamath
11 County Land Development Code, Section 12.001(B), that existing
12 uses made prior to the date of adoption of the Code on
13 November 25, 1981, which are not altered, expanded, modified or
14 abandoned may be continued. The question thus becomes: To
15 what use was the property put on and before November 25, 1981?

16 3. The Hearings Officer finds from clear, credible and
17 reliable testimony of adjacent property owners who have resided
18 at or owned adjacent property continuously since November 25,
19 1981, that the prior occupant kept at least one horse and both
20 rabbits and chickens and that those uses have continued to this
21 date.

22 4. Absent testimony to establish that the named person has
23 altered, expanded or modified the use by increasing the number of
24 small animals, the Hearings Officer dismisses allegation No. A.

25 5. Allegation B has been withdrawn by Klamath County, in
26 that the respondent has removed the auto bodies. The allegation
27 B is dismissed.

28 6. As to allegation No. A, the Hearings Officer specifically
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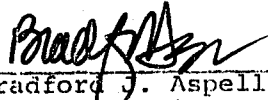
1 finds from testimony adduced at hearing that pigs were not
 2 introduced to the subject property nor raised on it until some
 3 date subsequent to November 25, 1981. The Hearings Officer con-
 4 cludes that the raising of pigs is therefore not an existing,
 5 authorized use and finds the named person to be in violation and
 6 accordingly hereby orders the affected person to remove the sub-
 7 ject pigs from the subject property effective on the date of
 8 this Order. This finding does not affect the keeping of less
 9 than two horses, however, as such a use will be permitted until
 10 abandoned.

11 7. The Hearings Officer further orders respondent to cease
 12 and desist and to refrain from any further introduction of pigs
 13 or swine onto the subject property.

14 8. Based on representation by Klamath County that respondent
 15 is clearing conditions deemed to be a nuisance under the Klamath
 16 County Nuisance Abatement Ordinance, but not cited herein further
 17 action shall be stayed and respondent shall be allowed until
 18 July 1, 1986, to remove all pigs from the property on the
 19 following condition that the affected person shall cooperate with
 20 Raymond La Marche, Klamath County Nuisance Abatement Officer,
 21 in the removal of refuse and debris under provisions of the
 22 Klamath County Nuisance Abatement Code.

23 Entered at Klamath Falls, Oregon, this 15 Day of May, 1986.

24 KLAMATH COUNTY HEARINGS DIVISION


25
 26 
 27 Bradford J. Aspell
 28 Hearings Officer

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 20th day
 of May A.D., 19 86 at 9:16 o'clock A M., and duly recorded in Vol. M86
 of _____ Deeds on Page 8598

FEE NONE

Evelyn Biehn, County Clerk
 By 

Return: Commissioners Journal