

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Citation) VIOLATION NO. 28-88
for Code Violation to JOHN NEW.) FINDINGS OF FACT, CONCLUSIONS
) OF LAW AND DECISION

This matter came before William M. Ganong, the Hearings Officer of Klamath County, Oregon, on July 7, 1988 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to Notice given in conformity with the Klamath County Land Development Code and related ordinances. John New was not present and was not represented at the hearing. The Klamath County Planning Department was represented by J. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. John New was personally served by a Klamath County Sheriff's deputy with a true copy of Klamath County, Oregon, Formal Uniform Citation No. 1 (25-88) on June 9, 1988. Said Citation alleges that John New initiated an automobile wrecking yard in a zone which does not allow said use. Said wrecking yard has existed since May 9, 1988 and was in existence on the day of the hearing on the citation.

2. Said Citation required John New to appear before the Klamath County Hearings Officer at 9:00 A.M. on July 7, 1988. Neither John New or anyone representing John New appeared at said time.

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3. The land where the alleged violation occurred is located on Bly Mountain, 30 miles east of Klamath Falls, Oregon and is described as Klamath County Assessor's tax lot No. 3811-4B-4800. The land is zoned R-1. Said zone is a residential zone and does not allow the commercial use of auto wrecking.

4. Neighboring property owners testified that there have been up to 16 auto's located on the subject property of which ten or 11 are inoperable. At least three automobiles have been inoperable for three months.

There was also testimony that Mr. New uses a cutting torch and other tools to disassemble vehicles on the property.

CODE PROVISIONS

1. LDC Section 93.005(J) defines autowrecking yard under the general heading of Commercial Use Types. LDC Sections 51.004(B & C) set out the uses allowed in the R-1 zone. Said uses do not include automotive and Heavy Equipment land uses such as Automobile Wrecking Yard.

2. LDC Code Article 14 sets out the procedure for enforcing the provisions of the Land Use Code. The subject Citation was issued pursuant to code section 14.003.

CODE FINDINGS AND ORDER

1. John New is using the subject property as an Automobile Wrecking Yard as defined in LDC Section 93.005(J). Said use is not allowed in the R-1 zone. John New is operating said Automobile Wrecking Yard on land zoned R-1. John New's said use of the above described land is in violation of the provisions of the Klamath County Land Development Code. Said use was

established on or about May 15, 1987 and after the effective date of the Klamath County Land Development Code.

2. John New is Ordered to immediately cease and desist from using tax lot 3811-4B-4800 as an Automobile Wrecking Yard.

3. John New is Ordered to perform the following acts:

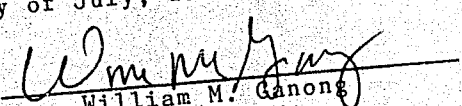
a. On or before July 31, 1988, John New shall provide a written inventory of all wrecked or inoperable vehicles and vehicle parts to the Klamath County Planning Director. Said inventory shall include Mr. New's certificate that said list is complete and accurate;

b. On or before July 31, 1988, John New shall provide to the Klamath County Planning Director a written plan for bringing the subject property into compliance with the Klamath County Land Use Code.

c. On or before September 1, 1988, John New shall demonstrate to the Klamath County Hearing's Officer, or his designee, that John New has completely abated the above said LDC violation.

4. In the event that John New continues his wrecking yard activity or fails to strictly comply with the provisions of this Order, the Planning Director shall refer this matter to the Klamath County District Attorney for further enforcement proceedings as provided by the Klamath County Land Development Code.

DATED this 19 day of July, 1988.


William M. Ganong
Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 22nd day
of July A.D., 19 88 at 9:49 o'clock A.M., and duly recorded in Vol. M88,
of Deeds on Page 11640.
Evelyn Biehn County Clerk
By Pauline Mullenbace

FEE none

Return: Commissioners Journal