

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Citation) Violation Case No. 37-88
against ROBERT SMITH.

) FINDINGS OF FACT,

) CONCLUSIONS OF LAW AND ORDER

-----)
This matter came before Hearings Officer Richard C. Whitlock on February 9, 1990 in the Klamath County Commissioners Hearing Room. The Hearing was held pursuant to an Order of the Hearings Officer dated October 24, 1989, which required the Respondent to bring the property into Klamath County Land Development Code compliance on or before February 9, 1990, and to appear at the hearing on February 9, 1990 to verify such compliance. The Respondent was present and testified in his own behalf. The Klamath County Planning Department was represented by Mr. Carl Shuck and the Recording Secretary was Leanne Mitchel. The testimony of Mr. Shuck and the Respondent was received into 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. The Respondent was previously cited by the Klamath County Planning Department for operating an automobile wrecking yard in a Zone, R-1 (Rural) which does not permit such use and for maintaining more than two inoperable vehicles on his property. After hearing on October 6, 1989, the Respondent was found in violation of the Klamath County Land Development Code and was ordered to follow a compliance plan

SMITH - VIOLATION - Page 1

'90 FEB 25 AM 9 20

agreed to by Respondent on the record which would have brought the subject property on Airway Drive into Code compliance by February 9, 1990.

2. Respondent has made substantial efforts at compliance since the last order, but he has encountered financial and practical difficulties making present compliance impossible.

3. At the hearing on February 9, 1990, Mr. Smith agreed on the record and in writing to a Work Program (Exhibits A and B) which would bring the property into compliance with the Klamath County Land Development Code by July 13, 1990, when the staff will be directed to return to the property to verify compliance with the Code.

ORDER:

Robert Smith is found to be in continuing violation of the Klamath County Land Development Code for maintaining an automobile wrecking yard in the R-1 Zone which does not allow such use.

Robert Smith is ordered to bring the subject property into compliance with the Code on or before July 13, 1990, pursuant to the terms of the compliance Work Program, attached hereto as Exhibits A and B and incorporated herein by this reference. The Klamath County Planning Department is hereby instructed to visit the subject property on or shortly after July 13, 1990 to assess the Respondent's compliance with the Development Code and this Order.

The Respondent is further ordered to appear at a

Hearing scheduled July 20, 1990 at 9:00 a.m. to verify to the Hearings Officer Respondent's compliance with the Code and this Order.

In the event the Respondent fails to comply with this Order (including the specific requirements of the incorporated Work Program) or in the event he violates the Development Code requirements regarding initiating and maintaining an automobile wrecking yard after July 13, 1990, then the Klamath County Planning Director is ordered to issue a citation or citations per Klamath County Ordinance 57 which may result in the imposition of fines of up to \$500.00 per day.

DATED this 14th day of February, 1990.



RICHARD C. WHITLOCK, 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."

WORK PROGRAM
Exhibit A

As identified and located on Exhibit "B", Site Map, the project's clean up efforts are directed at the following items and will follow the agreed upon time schedule. The groups indicated below and referenced on the site map consist of the following:

- Group 1: Machines, Washer, Dryer, Bikes, Scrap Metal, Four Stoves;
- Group 2: Tires, Rims, Barrels;
- Group 3: Rims, Miscellaneous aluminum (will keep fencing);
- Group 4: Tires, Rims, Pressure Tank;
- Group 5: Metal Tanks, Barrels, Sled;
- Group 6: Tank, Portion of Tires;
- Group 7: Wood, Cast Iron Tub;
- Group 8: Scrap Metal, Pipe;
- Group 9: Tires;
- Group 10: Tires and Rims;
- Group 11: Tires and Rims;
- Group 12: Barrel, Scrap Metal;
- Group 13: Keno Stove;
- Group 14: Scrap;
- Group 15: Bikes and Miscellaneous Scrap.

The following chronological order for implementation of the cleanup has been established and agreed upon by all parties, as witnessed below.

By March 30th, these groups and items will be removed:
Groups 1, 2, and 5.

By April 27th, these groups and items will be removed:
Groups 3, 13, and 15.

**WORK PROGRAM
Exhibit A**

As identified and located on Exhibit "B", Site Map, the project's clean up efforts are directed at the following items and will follow the agreed upon time schedule. The groups indicated below and referenced on the site map consist of the following:

- Group 1: Machines, Washer, Dryer, Bikes, Scrap Metal, Four Stoves;
- Group 2: Tires, Rims, Barrels;
- Group 3: Rims, Miscellaneous aluminum (will keep fencing);
- Group 4: Tires, Rims, Pressure Tank;
- Group 5: Metal Tanks, Barrels, Sled;
- Group 6: Tank, Portion of Tires;
- Group 7: Wood, Cast Iron Tub;
- Group 8: Scrap Metal, Pipe;
- Group 9: Tires;
- Group 10: Tires and Rims;
- Group 11: Tires and Rims;
- Group 12: Barrel, Scrap Metal;
- Group 13: Keno Stove;
- Group 14: Scrap;
- Group 15: Bikes and Miscellaneous Scrap.

The following chronological order for implementation of the cleanup has been established and agreed upon by all parties, as witnessed below:

By March 30th, these groups and items will be removed:

Groups 1, 2, and 5.

By April 27th, these groups and items will be removed:

Groups 3, 13, and 15.

By May 28, 1990, these groups and items will be removed:
Groups 4, 12, and 14.

By July 7, 1990, the remaining groups and items will be removed:
Groups 6, 7, 8, 9, 10, and 11.

At this time you will, if the work plan is followed, be in compliance with the Klamath County Land Development Code as outlined in Chapter 3, Article 33.

On July 13th, 1990, staff has been directed to perform a site review and provide photographic evidence to the Hearings Officer on July 20, 1990, that the agreed upon work has been performed.

The timely completion of this plan will forestall implementation of Klamath County Ordinance 57, which may result in fines up to \$500.00 per day.

The preceding work plan and notification of a July 20, 1990, hearing date, has been acknowledged and agreed upon by the following parties:

SIGNED and DATED this 9th day of February, 1990.

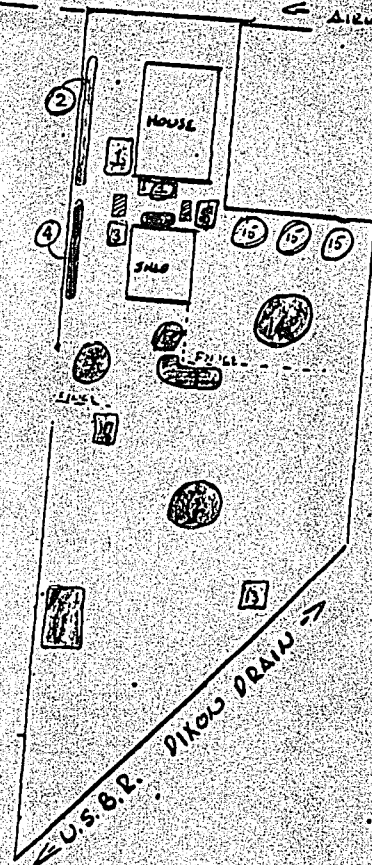

R. L. Smith
Property Owner


Richard C. Whitlock
Hearings Officer

EXHIBIT B
SITE MAP

3564

↑
N



Tax Account # 390921A800 - 1.62AC

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County
of Feb. A.D. 19 90 at 9:20 o'clock AM., and duly recorded in Vol. M90
of Deeds on Page 3559 day

FEE none

Return: Commissioners Journal
By Evelyn Biehn County Clerk
Pauline Miller