

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Revocation       ) C.U.P. No. 50-87  
 of Conditional Use Permit for       ) FINDINGS OF FACT,  
 CARLYLE HUTCHINSON and SARA       ) CONCLUSIONS OF LAW AND  
 HUTCHINSON.                       ) ORDER

THIS MATTER came before the Hearings Officer, Richard C. Whitlock, on April 6, 1990, in the Klamath County Commissioners Hearing Room. The Hearing was held pursuant to the Notice given in conformity with the Klamath County Land Development Code and related ordinances. The Respondents did not appear at the Hearing and there was no testimony or evidence offered at the hearing except the Staff report, all exhibits and staff comments. The Klamath County Planning Department was represented by Mr. 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, and exhibits A (letter to Cindy Hurt), B (staff photographs), and C (letter and photos from Complainant) were also received into the record. 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 Respondents were cited by the Klamath County Planning department for violating the terms of a Conditional Use Permit granted by the Board of County Commissioners on March 16,

1988, in the following particulars:

a. By keeping four (4) horses on the subject property instead of the maximum three (3) horses allowed by the Permit;

b. By failing to keep gates open between the several contiguous properties which was required to assure sufficient combined area to support the large animals; and

c. By keeping the horses within fifty (50) feet of the residential use of the property as restricted by Land Development Code Section 62.006(A).

2. The subject property is described as 2504 1/2 Crest Street, Klamath Falls, Oregon, and is approximately 10,400 square feet in area.

3. The Code Enforcement Officer testified to numerous visits to the property in January and February of 1990. These visits, staff photographs, and written testimony and photos submitted by a neighbor (Lee Bigby, Exhibit C) all indicate the following:

a. That there are four (4) horses continually on the property;

b. That the gates between the properties are not open on a continuous basis; and

c. That the animals are maintained within fifty (50) feet of the residential use on the property.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Section 44.004 (H) provides:

"H. Noncompliance with Conditions--The Planning Director may take action as provided by Article 14 of this Code where it reasonably appears that any condition imposed upon the granting of a Conditional Use Permit has not been complied with."

2. Section 14.004 provides:

"The Code Enforcement Officer may initiate proceedings\*\*\*to revoke the approval of any permit or land use approval issued pursuant to this Code in any case where a use of land has been\*\*\*conducted in a manner which violates or fails to observe\*\*\*a condition of approval."

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

1. The Respondents have violated and failed to observe three conditions of approval attached to the Conditional Use Permit granted March 16, 1988, in the following particulars:

- a. By keeping four (4) horses on the subject property instead of the maximum three (3) horses allowed by the Permit;

- b. By failing to keep gates open between the several contiguous properties which was required to assure sufficient combined area to support the large animals; and

- c. By keeping the horses within fifty (50) feet of the residential use of the property as restricted by Land Development Code Section 62.006(A).

ORDER:

1. Conditional Use permit No. 50-87, granted on March

16, 1988, by the Klamath County Board of Commissioners is hereby revoked, effective immediately.

2. All horses and other large animals shall be immediately removed from the property and in no event shall the animals remain longer than April 16, 1990.

3. In the event Respondents fail to timely remove the animals on or before April 16, 1990, or in the event this property is used for maintaining large animals anytime after April 16, 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 10<sup>th</sup> day of April, 1990.

Richard C. Whitlock  
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."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 10th day  
of April A.D., 19 90 at 4:26 o'clock PM., and duly recorded in Vol. M90,  
of Deeds on Page 6684

FEE none

Evelyn Biehn County Clerk

By Quinn Muckelbauer

Return: Commissioners Journal