

20061

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the citation
of NED PUTNAM/STURDICRAFT, INC.

VIOLATION CASE
NO. 42-89

This matter came before Neil D. Smith, Hearings officer for Klamath County, Oregon on 7 September 1990 in the County Commissioners' Hearing Room in Klamath Falls Oregon.

The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related Statutes and Ordinances. Mr. Robert Nichols, Esq., appeared for the applicant who was present. The Klamath County Planning Department was represented by Mr. Carl Shuck and the proceedings were recorded by Ms. Karen Burg.

The issue before the hearings officer was whether or not the citation ordered by the hearings officer on 6 March 1990 should issue.

FINDINGS OF FACT :

1. The Defendant is in substantial compliance with the order of 6 March 1990 and with the opinion of the Board of Commissioners dated 30 May 1990. That finding is based upon the Decision of Mr. Carl Shuck in a Site Plan Review Findings dated 22 August 1990.

2. Those in opposition to the decision mentioned above have stated that they did not appeal that decision in reliance upon an oral representation by a person in the office, that no appeal notice was required. While the hearings officer is sympathetic to the citizens who disagreed with the decision they were clearly given notice in writing at the bottom of page three of the findings that an appeal notice was necessary no later than 3 September 1990. This officer was given the opinion by counsel for the defendant that the decision was not an appealable order or was ultra vires. The hearings officer will call to all parties attention Article 22 (pg.41) wherein the L.D.C. does authorize the Planning Director review, conduct public hearings, and decide issues such as were decided here. Page 43, section 22.005 SPECIFICALLY sets forth the rules for appeal.

2. The property is not platted accurately and therefore the hearings officer is unable to determine whether or not the proper setback as referred to in the Planning Director's findings at item 3 (B.) page 1 are correct.

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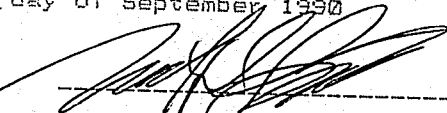
3. There is not compliance with the Order dated 6 March 1990 specifically item 2 where in the Respondent was ordered to "Submit an accurate site plan. This officer finds based upon the context of the order, the testimony taken and the spirit of the Commissioners order that that order has been complied with and that the intention of the preceding orders was to produce a ACCURATE PLAT which would allow a setback determination to be made.

4. The hearings officer has noted the undated letter stamped received 16 August 1990 was considered in the decision by the Planning Director dated 22 August 1990.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED THAT THE RESPONDENT SUBMIT AN ACCURATE PLAT SHOWING THE PROPERTY LINES IN SUFFICIENT DETAIL THAT THE SETBACKS CAN BE DETERMINED. IT IS FURTHER ORDERED THAT THE SURVEY BE MADE BY A LICENSED SURVEYOR IN THE STATE OF OREGON, SHOWING THE RELATIONSHIP OF ALL IMPROVEMENTS TO THE PROPERTY LINES. THE SURVEY IS TO BE SUBMITTED TO THE HEARINGS OFFICER NOT LATER THAN THE HEARING SET FOR 19 OCTOBER 1990.

DATED this 12th day of September 1990



Neil D. Smith, 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 12th day of Sept. A.D., 19 90 at 3:30 o'clock P.M., and duly recorded in Vol. M90 of Deeds on Page 18345.

FEE none

Evelyn Biehn - County Clerk
By Pauline Mullender

Return: Commissioners Journal