

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the violation)
 by BOYD AND ESTER MANES)

) VIOLATION
) NO. 16-88
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This matter came before Neil D. Smith, Hearings officer for Klamath County, Oregon on 10 January 1991 in the County Commissioners' Hearing Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Kim Lundahl the recording secretary was Ms. Karen Burg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter.

This matter coming before the Hearings Officer for the purpose of determining whether or not the above alleged violator is presently in violation of the Code. The matter was called and the defendant appeared as ordered and testified that a flock of sheep had not been on the property for some years. She further testified that a single sheep is presently kept on the property and it was being raised for butchering purposes only.

Mr. Larry Mohr appeared and testified at length regarding his interpretation of the permissible use of the Manes property. He further submitted four exhibits: H1 & H2, both photographs of the house and fence area taken approximately 10 years ago. He also submitted a two page history and argument labeled as exhibit G. Each of those exhibits were considered and examined carefully by the Hearings Officer.

There was also submitted and accepted into evidence numerous letters sent by persons who live in the immediate vicinity of the Manes property. Those letters are marked A through F all of those are in support of Mr. & Mrs. Manes.

The Hearings officer finds from the testimony and letters that there was a historical use of the land for keeping large animals. Never the less the keeping of large numbers of such animals does constitute a violation of the Land Use Code. Under provisions of the code a sheep is defined as a "large animal". Therefore the pasturing of a "large animal" is not in violation of the Land Use Code. Mr. Mohr further complained about the keeping of presents of ducks, geese and possibly other fowl on the land. Those are "small animals" and are not covered in this opinion.

Article 12.010 B clearly states that the code is not retroactive therefore the issue as to whether or not the sheep can be maintained on the property is clear--they can.

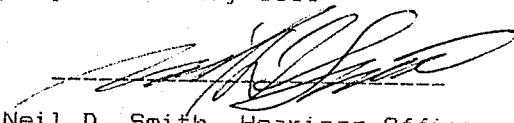
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Certainly the most difficult issue here is the number of such animals can be kept. I find that issue is beyond the scope of this code and is best determined by good farming practices and would suggest that consultations be made with animal husbandry experts to make that determination. There is also a potential sanitary problem if large numbers are kept there and that is within the purview of the Klamath County Health Department.

NOW THEREFORE I FIND THAT THE ALLEGED VIOLATOR IS NOT NOW IN VIOLATION OF THE LAND USE CODE AND THAT THE CITATION SHOULD BE DISMISSED.

SO ORDERED THIS 12TH DAY OF JANUARY 1991

DATED this 12th day of January 1991


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 seven (7) 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 13th day
of Jan. A.D., 19 92 at 3:18 o'clock P M., and duly recorded in Vol. M92,
of Deeds on Page 683

FEE none

Evelyn Biehn County Clerk

By Evelyn Biehn

Return: Commissioners Journal