

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
KLAMATH COUNTY**

**IN THE MATTER OF THE APPEAL OF HEARINGS OFFICER DECISION  
CONCERNING VC 20-97, FRED KEPNER, RESPONDENT/APPELLANT**

**1. NATURE OF THE CASE:**

The referenced case, a violation case alleging warehousing-heavy was being conducted on property not zoned for the use, was heard by the Hearings Officer MAY 16, 1997. An ORDER finding a violation exists was entered MAY 29, 1997. The respondent filed an appeal of this ORDER JUNE 6, 1997. A hearing on this appeal was conducted by the Board of County Commissioners JULY 16, 1997.

The appeal was heard pursuant to the procedure set out in Article 33 of the Klamath County Land Development Code.

**2. THOSE WHO PARTICIPATED:**

A listing of those who participated at this Hearing is on file with the Planning Department. The Planning Department was represented by Kim Lundahl, Senior Planner. Karen Burg, Planning Assistant, was the recording secretary. Members of the Board who heard the appeal were: Al Switzer, William R. Garrard, and M. Steven West.

**3. CASE DESCRIPTION:**

The Hearings Officer entered Order MAY 29, 1997 finding a violation and ordering compliance ("remove the equipment") by July 18, 1997. The property is known as 3038 Cannon St., Klamath Falls, OR 97603 and zoned for Suburban Residential uses (Art 51.5).

The appellants attorney, Brad Aspell, submitted a plan for resolution asking the BOCC require compliance be achieved by July 1, 1998.

**4. FINDINGS:**

The Board finds after consideration of the record and argument entered that:


The Hearings Officer correctly interpreted and made findings appropriate to the action taken, enforcement of the Land Development Code.

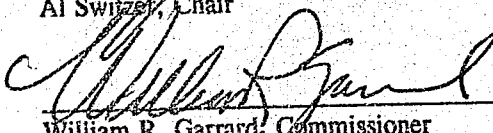
**5. ORDER:**

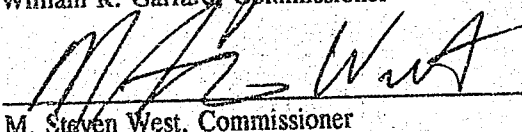
The Board of Commissioners, upon review of the record, testimony and argument presented, hereby **UPHOLDS** the Hearings Officer **ORDER** finding a violation exists.

FURTHER, the appellant is allowed until 60 days from the date of the hearing (SEPTEMBER 15, 1997) to bring the property into compliance with the Hearing Officer Order and the Land Development Code.

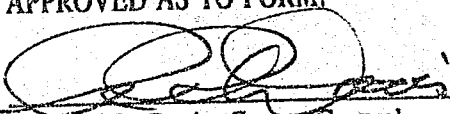
DATED this 28<sup>th</sup> day of July, 1997

  
Al Switzer, Chair

  
William R. Garrard, Commissioner

  
M. Steven West, Commissioner

**APPROVED AS TO FORM:**

  
Reginald R. Davis, County Counsel

**APPEAL RIGHTS**

This decision may be appealed to the Land Use Board of Appeals within 21 days of the date of execution by the BOCC mailing. Please contact the Planning Department for information as to this procedure. Failure to file an appeal within the allowed timeframe may affect your right to appeal this decision.

ATT: EXHIBIT A - Hearings Officer Order June 7, 1997

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the Violation/  
Citation of

Violation/Citation  
Case No. VC 20-97

Fred Kepner

Respondent

This matter came before Michael L. Brant, Hearings Officer for Klamath County, Oregon, on May 16, 1997, in the Klamath County Museum Meeting 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. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the recording secretary was Assistant Planner Karen Burg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter. The Klamath County Planning Department staff report was received. Based upon the evaluation of the staff report and consideration of the evidence received, the hearings officer makes the following findings of fact and conclusions and makes the following decision.

## FINDINGS OF FACT

The Respondent has been cited for maintaining outside storage of large, heavy equipment on Suburban Residential (RS) zoned property located at 3038 Cannon, Klamath Falls, Oregon. Mr. Kepner acknowledged that he is storing the equipment on the property. Mr. Kepner contends that neighbors are using their

property for commercial purposes and that justifies his current use of his property.

# CONCLUSION

The Respondent is in violation.

# ORDER

Respondent shall remove the equipment by July 18, 1997. If Respondent fails to comply with this Order it is further ordered that the Klamath County Code Enforcement Officer shall cite the Respondent to appear in the Wood River Justice Court. Bail shall be set at \$1500.00.

Dated this 29th day of May, 1997

Michael L. Brant  
Michael L. Brant  
Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.060 PROVIDES:

"An Order of the Hearings Officer may be appealed to the Board of County Commissioners within seven (7) days of its mailing as set forth in Article 33."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning the 30th day of July A.D., 19 97 at 9:15 o'clock A M., and duly recorded in Vol. M97 of Deeds on Page 24196.

FEE None

Bernetha G. Letsch, County Clerk  
By Editha M. Miller