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BOARD OF COUNTY COMMISSIONERS
KLAMATH COUNTY, OREGON

In the Matter of Conditional)
Use Permit No. 80-47 for JAMES)
M. BARNES and ALLISON GARRIOTT) SUPPLEMENTAL FINDINGS
AND ORDER

The requested Conditional Use Permit is for a commercial quarry in the AF (Agricultural Forestry) zone. The property involved consists of eighty acres described as the South one-half Northeast one-quarter of Section 5, Township 41, Range 10, and is located about three miles west of the City of Merrill. According to the applicant, the operation would involve blasting, crushing, and stockpiling of rock on the property. The proposed quarry would also require the construction of a private road which would lead from the western side of the property to Cheyne Road, a county road about one mile to the north.

On February 11, 1981, the application was heard before the Klamath County Hearings Officer who took testimony from both sides and agreed to view the site before making his decision. The property was visited on February 26, 1981, in the presence of Michael Brant, attorney for applicant, Vernon Gearhard, a neighboring property owner opposed to the quarry, and Jonathan Chudnoff of the Planning Department. The Hearings Officer signed an order on March 5, 1981, denying the Conditional Use Permit whereupon the applicant appealed the matter to the Klamath County Board of Commissioners.

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1 The Board of Commissioners held a hearing on April 29,
2 1981, and upon reviewing the record and hearing comments on the
3 appeal from both sides, voted to visit the site and render a
4 decision within thirty five days. The three County
5 Commissioners visited the site on May 4, 1981, accompanied by
6 Carl Shuck of the Planning Department. A decision was
7 subsequently made to overturn the Hearings Officer and grant
8 Conditional Use Permit No. 80-47, an order to that effect being
9 signed on May 21, 1981. This decision was appealed to the Land
10 Use Board of Appeals (LUBA 81-075) but before a full hearing
11 could be held on the case, the matter was remanded to Klamath
12 County at the County's request. This was done in order that the
13 Board of Commissioners could hold a hearing where both sides
14 could learn and discuss what the Board Members found during
15 their personal inspection of the site. The hearing was held on
16 August 31, 1981, and at its conclusion the Board of County
17 Commissioners voted to uphold its earlier decision to grant the
18 permit.

19 FINDINGS OF FACT:

20 1. The Findings of Fact made by the Board of County
21 Commissioners in its order dated May 21, 1981, are hereby
22 reaffirmed.

23 2. The following additional Findings of Fact are also
24 made:

25 a. From observation of the property it appeared that
26 the proposed quarry would be below, and therefore out of the

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1 main line of vision of the proposed Gearhard residence.

2 b. From observation of the property it appeared that
3 the proposed quarry site is separated from the Maquire property
4 by at least one-quarter mile which includes a ridge of land
5 rising above the proposed quarry site and above the level of the
6 Maquire property.

7 c. Observation of the property and the general area
8 showed that the soil was quite rocky and that several cinder or
9 gravel pits are already operating in the vicinity. The
10 topography ranges from rolling to steep.

11 d. Observation of the property gave no indication of
12 recent agricultural use.

13 CONCLUSIONS OF LAW:

14 1. The conclusions reached by the Board of County
15 Commissioners and stated in its order of May 21, 1981 are hereby
16 reaffirmed.

17 2. Observation of the site served to confirm the Board
18 Members' general knowledge of the area and was one of several
19 factors, including testimony and exhibits submitted at the
20 hearings used in reaching the decision.

21 Therefore, the approval previously granted for
22 Conditional Use Permit No. 80-47 for the operation of a
23 commercial quarry is upheld.

24 DONE AND DATED THIS 6th DAY OF November,
25 1981.

26 Russ Kuonen
Chairman

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Harold L. Wynne
Commissioner
Chris A. Chayne
Commissioner

APPROVED AS TO FORM:
Boivin and Boivin

By: *Boivin*

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County
this 9th day of November A. D. 19 81 at 4:36 clock P. M., and
duly recorded in Vol. M81, of Deeds on Page 19558

By EVELYN BIEHN, County Clerk
Evelyn Biehn

No Fee

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