

12605

BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY, OREGON Vol. 1185

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2
3 IN THE MATTER OF CONDITIONAL)
4 USE PERMIT NO. 80-47 FOR)
5 JAMES BARNES AND ALLISON)
6 GARRIOTT, APPLICANTS)

O R D E R

7 The request is for a Conditional Use Permit to allow a
8 commercial quarry in the AF (Agricultural Forestry) zone. The
9 proposed operation would involve blasting, crushing and stock-
piling rock and an asphalt plant.

CHRONOLOGY OF EVENTS

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11 This application was first submitted to the Klamath
12 County Planning Department on December 24, 1980, and scheduled
13 for review by the Klamath County Hearings Officer on January 14,
14 1981. The matter was continued to February 11, 1981, on which
15 date a full hearing was held. At the conclusion of the last
16 hearing it was agreed that the Hearings Officer should view the
17 site before making his decision. This visit took place on
18 February 26, 1981. On March 5, 1981, the Hearings Officer signed
19 an order denying the request. This decision was appealed to the
20 Klamath County Board of Commissioners on March 20, 1981, and a
21 hearing was held before the Board of County Commissioners on
22 April 29, 1981. The Board of County Commissioners voted to visit
23 the property and render its final decision within thirty-five
24 days. The site was visited on May 4, 1981, and on May 21, 1981,
25 the Board of County Commissioners signed an Order overturning
26 the Hearings Officer's decision approving the quarry. This
27 decision was appealed to the Land Use Board of Appeals, but before
28 a hearing could be held on this case, the matter was remanded to

1 Klamath County at the County's request. This was done so that
2 the Board of County Commissioners could review their site visit
3 at a public hearing. The hearing was held on August 31, 1981,
4 and at its conclusion the Board of County Commissioners upheld
5 its previous decision to grant the permit. Neighboring property
6 owners again appealed to the Land Use Board of Appeals. In its
7 final Order, dated February 24, 1982, the Land Use Board of
8 Appeals remanded the matter to Klamath County in order that better
9 Findings could be made to support the Board of County Commission-
10 ers' determination that the proposed use complied with the
11 conditional use section of Klamath County's Zoning Ordinance.

12 On April 5, 1982, the Klamath County Board of Commission-
13 ers held a hearing, accepting new testimony on this matter from
14 both sides. The Board of County Commissioners visited the site
15 on April 8, 1982, accompanied by County Staff, Vernon Gearhard,
16 Michael Brant, and Dan Hooker. A hearing was then held on April
17 12, 1982, for the purpose of reviewing the site visit and making
18 Findings.

19 Based on the previous record and on the new testimony
20 and exhibits submitted, the Klamath County Board of Commissioners
21 finds as follows:

22 FINDINGS FROM HEARING AND RECORD:

- 23 1. The request is to allow for a commercial quarry
24 including the extraction, crushing and stockpiling of rock and
25 an asphalt hot plant.
- 26 2. The request covers an eighty-acre parcel described as
27 the south $\frac{1}{2}$ of the northeast $\frac{1}{4}$ of Section 5, Township 41, Range
28 10, being Tax Lot 31-2. The site is three miles west of Merrill.

1 3. The request was reviewed at a public hearing before
2 the Board of County Commissioners on April 5, 1982.

3 4. It was found that the applicant would be utilizing
4 about 15 acres for his operation as follows:

5 a. The area used for extraction will be about 200' x
6 1000' or approximately 4.5 acres in size. Work will begin at the
7 north end of the rock outcrop and progress toward the southeast.

8 b. The rock crusher will occupy a site about 200' x 200'
9 in size or just under one acre.

10 c. About five acres of the site will be used to stockpile
11 the crushed rock.

12 d. Approximately three acres will be used for equipment
13 storage and loading.

14 FINDINGS FROM SITE VISIT:

15 1. The Board of County Commissioners visited the area on
16 April 8, 1982. The Board of County Commissioners viewed both the
17 applicant's property and the property of Vernon Gearhard, an
18 adjoining property owner opposing the quarry. The following
19 persons were present in addition to the Board of County Commission-
20 ers: Michael Brant, attorney for the applicant; Dan Hooker, Gener-
21 al Manager of Harney Rock and Paving Company, the proposed quarry
22 operator; Vernon Gearhard, an adjoining property owner; Earl
23 Kessler, County Public Works Director; and Carl Shuck and Jonathan
24 Chudnoff of the Planning Department Staff.

25 2. The Board of County Commissioners finds that the
26 proposed hot plant, machinery storage and stockpile areas would
27 be visible from the proposed Gearhard residence.

28 3. The Board of County Commissioners finds that the
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1 proposed crusher site would be about 750' south of the proposed
2 Gearhard home and would be hidden from view of the proposed home
3 by a ridge.

4 4. The Board of County Commissioners finds that other
5 than the initial cut into the top of the rocky knoll on appli-
6 cant's property, the quarry would face the south and be out of
7 sight of the proposed Gearhard home.

8 5. The Board of County Commissioners finds that appli-
9 cants have built a road into the quarry site. The road begins
10 at Cheyne Road, a gravel county road and heads south through
11 property belonging to Carrie Weiser before turning east onto
12 the Barnes-Garriott parcel. The road is one-quarter mile west
13 of the Gearhard property.

14 6. The Board of County Commissioners finds that in
15 viewing the Gearhard property it appeared to the Board that
16 other potential building sites existed which would allow him to
17 place the house further away from the proposed quarry and still
18 take advantage of solar heating.

19 7. The Board of County Commissioners finds that the
20 Gearhard home site is located about 2,000' north and some west
21 of the stockpile area; it was an estimation.

22 8. The Board of County Commissioners finds that when
23 standing at the location where the crusher would be, not even
24 the power pole that stands on the rise behind where the proposed
25 residence would be was in sight; it was totally out of sight.
26 The crusher itself would never been in view of the residence
27 itself.

28 9. The Board of County Commissioners finds that part

1 of the stockpile and the storage area and the hot plant if it
2 exists, would be within the view of their proposed home.

3 10. The Board of County Commissioners finds that the
4 mobile home that exists there now was not in view; the home
5 of the Maguires was not at all visible from the site.

6 11. The Board of County Commissioners finds that in
7 addressing Goal 9, Economy of the State, the development of
8 this type of natural resource that cannot be moved, whereas
9 residences can be in the city.

10 CONCLUSIONS OF LAW:

11 1. The site is adequate in size and shape to accommodate
12 the proposed use along with all yards, spaces, parking, loading
13 and other features required to adjust said use with land and
14 uses in the neighborhood.

15 2. The site relates to streets and highways adequate in
16 width and pavement type to carry the quantity and kind of traffic
17 generated by the proposed use.

18 3. The proposed use will have no adverse effects on
19 abutting property or the permitted use thereof.

20 4. The following conditions are deemed necessary to
21 protect the public health, safety, and general welfare.

22 CONDITIONS:

23 1. The operation will be an open pit daylighted toward
24 the south.

25 2. Only down-drilling will be used in blasting and all
26 property owners within one-half mile are to receive at least
27 one day prior notice of blasting, and proper clearance be
28 assured prior to actual blasting.

3. Noise suppressors and watering will be used to reduce noise and dust from the crusher operation.

4. Dust inhibitors will be used on applicant's private road, and on the unpaved county roads of use leading from applicant's operation.

5. Not more than 15 acres of the site shall be used at any one time.

6. The hot plant is to be operated in such a way as to minimize odors and is to comply with all Department of Environmental Quality emission standards.

7. The hot plant is to be no closer than one-quarter mile to the Gearhard residence.

8. The rock crusher and hot plant are not to be operated on Sundays.

9. Shifts should be limited to two eight-hour shifts per day, to be limited to daylight hours.

NOW, THEREFORE, it is hereby ordered that the property described as the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 5, Township 41, Range 10, being Tax Lot 31-2, be granted a Conditional Use Permit for a commercial quarry subject to the conditions above stated.

DONE AND DATED THIS 3rd DAY OF June, 1982.

APPROVED AS TO FORM:
Boivin & Boivin

By Robert Boivin

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Harold L. Kynne
Chairman

Alvin A. Clegg
Commissioner

Dee Kuonen
Commissioner

State of OREGON: COUNTY OF KLAMATH: ss.

I hereby certify that the within instrument was received and filed for record on the 10 day of June A.D., 1982 at 4:13 o'clock P M., and duly recorded in Vol M 82 of Deeds on page 7334.

Fee \$ no fee

EVELYN BIEHN
COUNTY CLERK

By James M. Shum Deputy