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Vol. 1787 Page 6886

BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of a )  
CONDITIONAL USE PERMIT ) C.U.P. No. 6-87  
for ) FINDINGS OF FACT,  
WEYERHAEUSER COMPANY ) CONCLUSIONS OF LAW  
AND DECISION

THIS MATTER came on for hearing before Assistant  
Hearings Officer, JAMES R. UERLINGS, on the 16th day of April,  
1987, at 10 A.M. in the Klamath County Commissioners' Hearing  
Room. The hearing was held pursuant to notice given in  
conformity with the Klamath County Development Code and related  
ordinances. The applicant was represented by John D. Monfore and  
the Planning Department was represented by Kim Lundahl.

The following exhibits were marked, entered and  
received into evidence: Exhibits "A" through "E".

The Assistant Hearings Officer, after reviewing the  
evidence presented, makes the following findings of fact,  
conclusions of law and decision.

FINDINGS OF FACT:

1. The applicant is requesting this conditional use  
permit for the commercial operation of a mineral and aggregate  
extraction site pursuant to Section 51.020(D)(1) of the Land  
Development Code.

2. The property is located three miles South of  
Location Butte, 20 miles East of Chemult. The legal description  
of the property is "portions of Sections 8 and 17, Township 28  
South, Range 11 East Willamette Meridian, Klamath County,  
Oregon".

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AND DECISION

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1                   3. The Plan Designation upon the property is Forestry  
2 and the Zone Designation is Forestry.

3                   4. The dimensions of the property are 24 acres,  
4 rectangular in shape. The topography varies from level to  
5 vertical.

6                   5. General drainage consists of surface runoff into  
7 natural drainageways.

8                   6. Vegetation consists of pines, brush and grass.

9                   7. Access to the property is over a Weyerhaeuser  
10 Company road North of Silver Lake Highway.

11                   8. The Soil Classification is Class VIII and the  
12 Timber Site Productivity Rating is Class VII.

13                   9. Unique physical characteristics of the surrounding  
14 lands consist of Weyerhaeuser reforestation projects.

15                   10. Adjacent and surrounding zoning is Forestry.

16                   11. Public facilities and services furnished to the  
17 property do not apply to this application.

18                   12. The aggregate extracted from this site will be  
19 used by the applicant to some extent but primarily will be sold  
20 to commercial operations. Some of the aggregate will be used on  
21 road construction projects within the vicinity of the site. The  
22 availability of this site to State and county road projects will  
23 significantly reduce the costs of those projects as there is no  
24 other site within the general area that will produce aggregate  
25 with the hardness quality and ability to wear as this site will  
26 produce.

27                   13. There are no residences or streams that could be  
28 impacted by this operation.

1           14. This site is so remote from any other activity  
2 that only limited conditions need to be imposed upon its  
3 operation.

4           15. The road to the site needs to be improved in order  
5 to provide for the level of traffic to be generated by the  
6 extraction site.

7           16. The site has been approved by the Department of  
8 Geology and Mining, State of Oregon, subject to the conditions as  
9 set forth in their permit.

10           17. The site is expected to generate between 40,000  
11 and 120,000 cubic yards of aggregate.

12           18. Although the road to the site is open to the  
13 public, it will be closed during the time of mining operations.

14           19. The site will be used for a short duration during  
15 each year, probably no longer than three months. The site,  
16 however, will yield rock at the expected extraction level for  
17 approximately 50 years.

18 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

19           1. Klamath County Development Code Section 44.003  
20 sets forth the criteria for consideration in the application of a  
21 conditional use permit:

22           A. That the use is conditionally permitted in  
23 the zone in which it is proposed.

24           B. That the location, size, design and operating  
25 characteristics of the proposed uses is in conformance with the  
26 Klamath County Comprehensive Plan.

27           C. That the location, size, design and operating  
28 characteristics of the proposed development will be compatible

1 with, and will not adversely effect, the livability or  
2 appropriate development of abutting properties in the surrounding  
3 neighborhood. Consideration shall be given to the harmony in  
4 scale, bulk and utilities; to harmful effects, if any, upon  
5 desirable neighborhood character; to the generation of traffic  
6 and the capacity of surrounding streets and to other relevant  
7 impact of development.

8 2. Additionally, Section 81.004 allows for the  
9 addition of conditions to the granting of conditional use permits  
10 where those conditions are deemed necessary for the protection of  
11 the health, safety and welfare of the citizens of Klamath County.

12 3. Klamath County Development Code Section 51.020(E),  
13 Conditional Use Permit Criteria, states that the uses  
14 conditionally permitted shall be subject to review in accordance  
15 with the following criteria. The review authority must find that  
16 each such use:

17 A. Is compatible with forest uses;

18 B. Does not interfere seriously with the  
19 accepted forestry practices on adjacent lands devoted to forest  
20 use; and does not significantly increase the cost of forestry  
21 operations on such lands;

22 C. Does not materially alter the stability of  
23 the overall land use pattern of the area;

24 D. Is situated on generally unsuitable land for  
25 the production of forest crops and livestock, considering the  
26 terrain, adverse soil or land conditions, drainage and flooding,  
27 vegetation, location and size of tract;

28 E. Considers forest site productivity, minimizes

1 the loss of productive forest lands; and is limited in size to  
2 the area suitable and appropriate to the needs of the proposed  
3 use;

4  
5 F. Meets the standards relating to the  
6 availability of fire protection as set forth in Article 69 of  
7 this Code and other rural services and will not overtax those  
8 services; and

9 G. Complies with such other conditions as the  
10 review authority considers necessary to protect forest uses.

11 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

12 See Exhibit "A" attached hereto and incorporated by  
13 this reference.

14 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

15 1. The proposed use is compatible with forest uses as  
16 the size of this site prevents it from being used as an economic  
17 unit for forest production.

18 2. The use does not interfere seriously with accepted  
19 forestry practices on adjacent lands devoted to forest use as  
20 those uses do not exist and are not contemplated on the subject  
21 property or adjacent lands.

22 3. The proposed use does not materially alter the  
23 stability of the overall land use pattern in the area as the  
24 Timber Productivity Rating and the Soil Classification are so low  
25 that timber cannot be grown profitably on the property.

26 4. The proposed use is situated on generally  
27 unsuitable land for the production of forest crops. The Timber  
28 Site Productivity Rating is VII and SCS Soil Classification is  
VIII, indicating that the property is extremely poor for the

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AND DECISION

1 production of forest crops.

2 5. Considering the Timber Site Productivity Rating of  
3 VII, the loss of this land does not constitute a loss of  
4 productive forest land and the size of the parcel has been  
5 limited to the area suitable and appropriate to the establishment  
6 of an aggregate extraction site.

7 6. The property meets the standards relating to the  
8 availability of fire protection as contained in Article 69 of  
9 this Code and the establishment of this site will not overtax  
10 available rural services.

11 7. The Hearings Officer has considered the  
12 establishment of conditions on the granting of this conditional  
13 use permit and they will be discussed subsequently in this Order.

14 8. The proposed use is conditionally permitted under  
15 the Klamath County Land Development Code for the zone in which it  
16 is proposed.

17 9. The location, size, design and operating  
18 characteristics of the proposed use are in conformance with the  
19 Klamath County Comprehensive Plan.

20 10. The location, size, design and operating  
21 characteristics of the proposed development will be compatible  
22 with, and will not have a significant adverse effect on, the  
23 appropriate development and use of abutting properties in the  
24 surrounding neighborhood.

25 CONCLUSIONS OF LAW AND DECISION:

26 1. This request for a conditional use permit on the  
27 subject property meets all applicable Klamath County Development  
28 Code criteria and policies governing such.

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AND DECISION

1  
2 2. This request for a conditional use permit on the  
3 subject property is consistent with, and complies with, all  
4 applicable Klamath County land use planning policies.

5 3. The following conditions are deemed appropriate to  
6 protect the health, safety and welfare of the citizens of Klamath  
7 County:

8 A. The applicant follow its plot plan, Exhibit  
9 "B", filed with the Application for Change of Land Use.

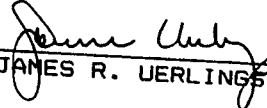
10 B. The applicant shall obtain and maintain a  
11 permit from the Oregon Department of Geology and Mining and shall  
12 follow all conditions contained within that permit.

13 C. The applicant shall gravel the access road to  
14 the site in order to reduce the generation of dust in the area of  
15 the site.

16 D. The applicant shall maintain a buffer zone  
17 between the site and any public highways.

18 NOW, THEREFORE, IT IS HEREBY ORDERED that this request  
19 for a conditional use permit on the subject property is granted,  
20 subject to the applicant following the conditions as set forth  
21 above.

22 DATED this 21 day of April, 1987.

23  
24   
25 JAMES R. UERLINGS  
26  
27  
28

Conformance with Relevant Klamath County Policies:

6893

Goal 1 - Citizen Involvement:

A public hearing on this matter has been set for April 16, 1987. Notice has been sent to surrounding property owners, concerned public agencies, posted in public places, and published in the Herald & News.

Goal 2 - Land Use Planning:

The property is zoned for forest use. The Hearings Officer must find the application for non-forest use complies with Section 51.021(D) of the Land Development Code.

Goal 4 - Forest Lands:

Relevant Policies:

1. The following lands shall be designated Forestry and shall be subject to the regulations of the Forestry and Forest/Range zones contained in the Land Development Code:
  - (1) Public or private industry forest lands located contiguously in large blocks, i.e., National Forest Service, BLM, Weyerhaeuser, Gilchrist timber lands;
  - (2) Significant wildlife and fishery habitat areas;
  - (3) Land having a predominant timber site productivity rating of I-VI;
  - (4) Isolated pockets of land within forest areas which do not meet the above criteria;
  - (5) Lands needed for watershed protection of recreation;
  - (6) Lands where extreme conditions or climate, soil and topography require the maintenance of vegetation cover irrespective of use;
  - (7) Other lands needed to protect farm or forest uses on surrounding designated agricultural or forest lands.
3. Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan.
4. The County shall regulate development of non-forest uses in forested areas.



Conformance with Relevant Klamath County Policies Continued:

6894

Goal 6 - Air, Water and Land Resource Quality:

Use of the property as an extraction site is subject to yearly review by the Department of Geology and Mineral Industries.

Goal 7 - Natural Disaster and Hazards Area:

The County shall consider site constraints in evaluating land use in fire hazard areas.

The conditional use permit site is not within a fire protection district. The intensity of use proposed does not pose a significant fire hazard.

Goals 3, 5, and 8-14 do not pertain or are not affected by this application.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 23rd day  
of April A.D., 19 87 at 2:41 o'clock P M., and duly recorded in Vol. M87,  
of Deeds on Page 6886.

FEE NO FEE

Return: Commissioners' Journal

Evelyn Biehn,

County Clerk

By

*Ann Smith*