

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for) C.U.P. NO. 17-88
 a Conditional Use Permit for) FINDINGS OF FACT, CONCLUSIONS
 E. W. MIGNOT.) OF LAW AND DECISION

This matter came before William M. Ganong, the Hearings Officer of Klamath County, Oregon, on July 7, 1988 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to Notice given in conformity with the Klamath County Land Development Code and related ordinances. E. W. Mignot was present and represented himself. The Klamath County Planning Department was represented by J. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT:

1. E. W. Mignot applied for a Conditional Use Permit to establish a mineral extraction site on five acres of land located south of Chemult, Oregon. The Applicant will surface mine pumice. The pumice will be trucked to Medford and used in construction block.

2. The property is described as Tax lot 2708-28-300. Said tax lot contains approximately 75 acres of which only five acres locate near the center of the property will be mined. The area to be mined consists of a pumice knoll approximately 70 feet in height. The Knoll is generally barren containing very little brush and six small lodgepole pine trees.

3. The subject property is zoned Forestry. It has a timber site productivity rating of V and an SCS rating of Class VI. The Applicant testified that there are no commercial forest uses or practices on the subject property or any of the adjoining property.

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4. The Applicant estimates that the proposed use will last three or four years. The mining will be conducted 8 hours a day, five days a week. The Applicant has a 4,000 gallon capacity water truck and anticipates drilling a water well on the subject property.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

LDC Section 51.020(D)(1) allows mineral extraction as a non-forest Conditional Use in the Forestry zone. LDC Section 51.020(E) sets out the review criteria for a non forest use conditional uses in the forestry zone and Section 81.004 provides site conditions which can be applied to mineral extraction sites.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

1. The proposed use is compatible with forest uses on the subject property and other nearby land. The subject property has minimal forest land value. It's used for commercial forestry activities is impacted by its soils, the existing pine beetle infestation and its proximity to the town of Chemult. The area which will be mined has no forest value at this time.
2. There are no forestry practices being conducted on adjacent land and the proposed use will not significantly increase the cost of forestry operations on such lands.
3. The proposed use is a temporary use and will not materially alter the stability of the overall land use pattern in the area.
4. The proposed use is situated on land which is generally unsuited for production of forest crops and livestock.
5. The extraction of the pumice from the subject site minimizes the loss of more productive forest lands containing pumice.
6. The subject property is in the Chemult Fire District and near the Chemult National Forest Ranger Station and fire dispatch center.

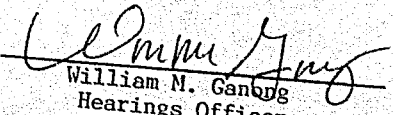
7. The Granting of this Conditional Use Permit is subject to strict compliance by the Applicant, his employees, agents, contractors, successors and assigns with the following requirements:

- a. That the subject site will be used on a temporary basis. This permit shall expire at midnight on December 31, 1995;
- b. That the mineral extraction operations and reclamation shall be conducted in accordance with all applicable provisions of State Law;
- c. That there will be no on site processing of the extracted minerals;
- d. That the dust from access road and site operations will be controlled so as to cause no problems for adjacent and nearby landowners and land uses;
- e. That the access to the site will be developed to the standards of the Oregon Highway Division so as to assure safe access to and from the highway;
- f. That there be no noise imminating from the site between sunset and sunrise; and
- g. That the mineral extraction be conducted in strict compliance with all applicable County, State and Federal laws, ordinances, regulations and rules.

ORDER

Subject to strict compliance with the conditions set forth above, E.W. Mignot is granted a Conditional Use Permit to conduct mineral extraction activities on the above described parcel of property.

DATED this 21 day of July, 1988.


William M. Ganong
Hearings Officer

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Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of the Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County
of July A.D., 19 88 at 9:49 o'clock A. M., and duly recorded in Vol. M88
of Deeds on Page 11648

FEE none

Evelyn Biehn County Clerk
By Caroline M. Mendenhall

Return: Commissioners Journal