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FREMONT COUNTY CONDITIONAL USE PERMIT

Permit Number CUP 99-1 TALLAHASSEE PIT

Upon application, incorporated herein as set forth in full, and subject to the terms and conditions set forth in Fremont County Board of County Commissioners Resolution Number 17, Series of 1999, the Board of County Commissioners have reviewed and approved a Life of the Mine Conditional Use Permit for A SURFACE MINING OPERATION FOR THE REMOVAL OF CONSTRUCTION AGGREGATES, CRUSHING AND SCREENING. The subject property is located in the Agricultural Forestry Zone District. The legal description for which said issued permit is as follows:

LEGAL DESCRIPTION

SW1/4 SE1/4, SE1/4 SW1/4, and U.S. Government Lot 5 all in Section 30, Township 16 South, Range 72 West of the 6th P.M. Fremont County, Colorado, lying north of County Road #2, AKA Tallahassee Road.

Said activity is pursuant to the Fremont County Zoning Resolution Section 8.2.

Date Approved: April 13, 1999

Date of Expiration: Life of the Mine

Date of Issuance: June 14, 1999

Authorized Representative Signature: Bill Giordano
Bill Giordano, Planning Director

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Commissioner McNew moved the adoption of the following Resolution:

RESOLUTION NO. 17

Series of 1999

Resolution for Conditional Use Permit (File # CUP 99-1 TALLAHASSEE PIT

BE IT RESOLVED by the Board of County Commissioners of Fremont County:

THAT WHEREAS, property owned by Fred Lowry and Jerald A. Scifert, (hereafter "Applicant") has made application for issuance of a Conditional Use Permit pursuant to 8.2 of the current zoning resolution of Fremont County to allow for a surface mining operation for the removal of construction aggregates, crushing and screening which application has been designated as CUP 99-1 TALLAHASSEE PIT; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Department, and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Planning Department, to all property owners within five hundred (500) feet of the boundaries of the subject parcel; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board of County Commissioners held a public hearing concerning said application on April 13, 1999, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the county's file concerning the application; and

WHEREAS, it appears that issuance of a Conditional Use Permit is appropriate;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Fremont County that:

1. The Board of County Commissioners of Fremont County make the following findings with respect to the application for issuance of a Conditional Use Permit to Applicant as follows:

- a. The procedure requirements of 8.2 of the current Fremont County zoning resolution have been met.
 - b. The location of the proposed use is compatible with other land uses in the area and does not place an undue burden on existing transportation, utilities, and service facilities in the vicinity, except as otherwise noted in these findings:
 - c. The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
 - d. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
 - e. The proposed use, if it complies with all conditions on which this approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the county, and will not cause significant air, water, noise or other pollution.
2. A Conditional Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
- a. Conditional Use Permit be issued for a life of the mine.
 - b. The Planning Department will review the permit yearly, to determine compliance with the conditions of the permit and forward it to the Board of County Commissioners for their review as required by regulations.
 - c. Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
 - d. Applicant shall comply with all laws and regulations of the State of Colorado, its agencies or departments, the Board of County Commissioners of Fremont County, and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
 - e. Applicant shall obtain and keep in effect all other permits, license or the like, required by any other governmental agency and as otherwise may be required by Fremont County. Revocation, suspension or expiration of any such other permits, license or the like shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.

- f. The following will be required prior to commencing the operation:
- 1) Division of Minerals and Geology 110 Limited Impact Permit
 - 2) Colorado Stormwater Discharge Permit
 - 3) MSHA Permit Number
 - 4) Documentation that a APEN permit is not required.
- g. If the conditional use is abandoned, discontinued or terminated, for a period of six (6) months, the approval thereof shall be deemed withdrawn and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to, or does temporarily cease the conditional use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Planning Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year, and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board of County Commissioners. **The applicant may discontinue operations for six (6) months or more due to weather or market demand for product. Such discontinuance is not to be considered as intent to cease mining.**
- h. If a Conditional Use Permit is to be transferred it shall comply with all applicable Federal, State and Local regulations regarding such transfer.
- i. Days of operation shall not be limited.
- j. Hours of operation shall be limited from sunrise to sunset.
- k. The holder of the Conditional Use Permit will assist the County in maintenance of County Road #2 if the truck traffic contributes to deterioration of the roadway as determined to be necessary by the Board of County Commissioners.
- l. Fremont County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.

- m. Paving of access and parking area will be required within six (6) months, if County Road # 2 is paved.

ADDITIONAL REQUIREMENT

The following shall be provided within six (6) months after final approval by the Board of County Commissioners:

- 1. A driveway access permit from County Road # 2.

Commissioner Rall seconded the adoption of the foregoing Resolution and upon a vote of the Commissioners as follows:

Mr. Commissioner Rall: Aye/Nay/Absent
Mr. Commissioner McNew: Aye/Nay/Absent
Mr. Commissioner Schauer: Aye/Nay/Absent

The Resolution was declared to be duly adopted.

DATE: 4-27-99

James R. Schauer
CHAIRMAN, COUNTY COMMISSIONERS