



## DEPARTMENT OF PLANNING AND DEVELOPMENT

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**TO:** Lincoln County Planning Commission  
**FROM:** Onno Husing, Director  
Lincoln County Planning & Development Department  
**Date:** November 30, 2017

On Tuesday Sept 26, 2017 I participated in a site visit to the Eckman Creek Quarry.

The others in attendance at the site visit were: Dave Kauffman, the owner/operator of Eckman Creek Quarry, Vaughn Balzer (Lead Reclamationist for the Department of Geology and Mineral Industries (DOGAMI) and Lisa Reinhart (Storm Water Management Specialist for DOGAMI).

The purpose of the site visit was to share information and understand: (a) the DOGAMI permitting history for the Eckman Creek Quarry, and, (b) the operations history at the quarry.

The site visit, and the inquiry into the history and operations of Eckman Creek Quarry, was undertaken in response to complaints submitted to our Department by a nearby resident to the quarry (Robert Rubin). Mr. Rubin's residence is approximately 2,000 feet away (as the crow flies) from the quarry.

Mr. Rubin has asserted Lincoln County has the authority, indeed, the duty, under the Lincoln County's Development Code, to require the quarry operator to be subject to land use regulation through a conditional use permit. Mr. Rubin is also seeking, through a conditional use permit process, to subject the quarry operator (Dave Kauffman) to mandatory operating hours and mandatory notifications for blasting of rock at the quarry.

### STATEMENT OF FACTS

Eckman Creek Quarries has been operating in the same location, continuously, for decades (since the late 1940s). Dave Kauffman's grandfather, Larry Kauffman, was the founder of the quarry.

During the recent site visit to the Eckman Creek quarry we examined a 1973 aerial photo of the subject property. The 1973 photo shows, with clarity, the footprint of the Eckman Creek Quarry during 1973. Looking at the photo, and seeing the present footprint of the quarry of the quarry, it is apparent that the quarry occupies the same footprint as 1973.

### OUR DEPARTMENT'S FINDING

Under Lincoln County's Development Code (LCC 1.1605 Authorization to Grant, Deny or Revoke a Conditional Use Permit section (3)), if a use existing prior to February 12, 1974 (a use classified as a conditional use or a non-conforming use), and if that use has been continuous, that use qualifies as an authorized use. (See attached copy of LCC 1.1605(3)).

The use in question (the Eckman Creek Quarry) has been continuous for many decades. In addition, the use of the property has not changed (once it became a quarry it remained a quarry). In addition, the use is confined to the same "lot area" and the quarry operation predates February 12, 1974. Therefore, Eckman Creek Quarry

qualifies as an "authorized use" under Lincoln County's land use code. *For these reasons our Department cannot require the owner/operator of the Eckman Creek Quarry to be regulated as a conditional use.*

In the future, Eckman Creek quarry will almost certainly expand its operations. That's because there's a large amount of quality aggregate resources in the immediate vicinity of the existing quarry. In the future, when expansion of the quarry takes place, Lincoln County will be obligated (if our code requirements remain the same) to require the owners/operators of the quarry to apply for a conditional use permit to regulate the expanded operations.

Dave Kauffman has agreed, voluntarily, to provide notice of blasting to nearby property owners requesting notice. Blasting activities at the quarry take place approximately twice a year (for portion of one day).

## CONDITIONAL USES

### 1.1601 Purpose

Certain types of uses require special consideration prior to their being permitted in a particular zone. The reasons for requiring such special consideration include, among others, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the uses, and the effect such uses have on any adjoining land uses and on the growth and development of the County as a whole. All uses permitted conditionally possess unique and special characteristics making impractical their inclusion as outright uses in many of the various zones herein defined. Location and operation of designated conditional uses shall be subject to review and authorized only by issuance of a Conditional Use Permit. The purpose of review shall be to determine that the characteristics of any such use shall not be unreasonably incompatible with the type of uses permitted in surrounding areas, and for the further purpose of establishing such conditions as may be reasonable so that the basic purposes of this Chapter shall be served. Nothing herein shall be construed to require the granting of a conditional use permit.

### 1.1605 Authorization to Grant, Deny or Revoke Conditional Use Permit

(1) Conditional uses listed in LCC 1.1301 through 1.1394 may be permitted, enlarged, or altered upon authorization by the Planning Division or by the Planning Commission in accordance with the standards and procedures as set forth herein.

(2) In approving a conditional use request or the modification of a conditional use, the Planning Division or Planning Commission may impose, in addition to those standards and requirements expressly specified by this Section, additional conditions which are considered necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

- (a) Increasing the required lot size or yard dimensions.
- (b) Limiting the height of buildings.
- (c) Controlling the location and number of vehicle access points.
- (d) Increasing the street width.
- (e) Increasing the number of required off-street parking spaces.
- (f) Limiting the number, size, location, and lighting of signs.
- (g) Requiring fencing, screening, landscaping, diking, or other facilities to protect adjacent or nearby property.
- (h) Designating sites for open space.
- (i) Setting a time limit for which the conditional use is approved.
- (j) Site reclamation upon discontinuance of use.

(3) In the case of a use existing prior to February 12, 1974, and classified in this chapter as a conditional use or a non-conforming use, change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

(4) The Planning Commission may require or authorize the Planning Division to require that the applicant for a conditional use furnish the County with a performance bond of up to the value of the cost of the improvements to be guaranteed by such bond, in order to ensure that the conditional use is completed according to the plans as approved by the Planning Commission or the Planning Department.