



Memorandum

Date: January 16, 2003
To: Board of Supervisors
From: Alan L. Seltzer, Chief Assistant County Counsel
Subject: Facilitation Report - Ellwood Quarry Revised Conditional Use Permit

Facilitation meetings in the above referenced appeal were held on November 6, November 27 and December 19, 2002. Participating in the meetings on behalf of the applicant, Ellwood Quarry, were Vic Batastini, Sid Goldstien, Steven Kirby, and Kenneth Doty. Barbara S. Massey appeared for appellant Winchester Commons Homeowners Association ("HOA"). Appellant Ron Pulice appeared with Susan Petrovich. Jackie Campbell and Brian Baca, from P&D, also participated. As described below and in the staff report for this item, the facilitation process resulted in a consensus recommendation that your Board approve permit modifications that would fully resolve this appeal.

The November 6 meeting began with Barbara Massey identifying appeal issues for the Homeowners Assn. These included (1) duration of CUP (Condition #6); (2) maximum number of truck trips per day (Condition #8); (3) truck routing (Condition #22); (4) reclamation completion (Condition #50); (5) operator compliance with truck tarping requirement (Condition #55); (6) operator response to neighbor complaints (new condition). Mr. Pulice then identified two issues critical to his appeal: (1) truck trip limitations to the agricultural landfill also at the Ellwood Ranch; (2) road improvements required pursuant to Condition #56, which was imposed by the Planning Commission.

Mr. Kirby and other Ellwood Quarry representatives first addressed the appeal issues identified by Ms. Massey. The applicant agreed that the scale operator should verify that tarps are in place for loaded trucks before trucks leave the facility. It was thought that operator monitoring of tarping would address most of the essential neighbor complaint issues, although diesel exhaust from the number of trips was identified as a separate matter to be discussed (see below). The parties discussed procedures whereby HOA complaints and others would be logged and responded to by the quarry operator. This discussion resulted in the proposal of new condition #57. The parties next discussed modification of Condition #50, to limit the number of time extensions to complete site reclamation and to ensure public notice of extension hearings.

Condition #22 (truck routing) was the subject of extended discussion and involved review of the original permit condition and project EIR. It was agreed that the condition should be clarified to restrict exit trips to Cathedral Oaks, consistent with the intent of the original permit and EIR. The parties next discussed whether Condition #8 should be clarified to allow 96 daily trips (48 trips and 48 trips out). The applicant indicated

willingness to agree to such a clarification if a consensus agreement could be reached on the final issue – the life of the extended CUP. At this point, the parties discussed various permit life periods, with interim compliance hearings and permit reopeners. In light of the progress made at the meeting, a second facilitation meeting was set and the applicant and appellant Massey agreed to meet and report on developments at the subsequent meeting, held November 27.

The meeting participants then focused on issues raised by Mr. Pulice. The Ellwood Ranch property owners and Mr. Pulice acknowledged that this appeal provided them the opportunity, as adjacent property owners, to negotiate issues beyond the scope of the CUP, and that such negotiations were proceeding independently. The parties then focused on two issues believed related to the CUP. First, Mr. Pulice requested that the CUP include a truck trip limitation of 27 round trips per day on the Ellwood Ranch agricultural landfill on the property. Staff, however, was concerned that the landfill operation had no nexus to the CUP before your Board. Accordingly, the parties agreed that Ellwood Ranch would seek a revision to the land use permit (“LUP”) for the agricultural landfill that would impose such a limitation and add a provision that any revision would first require notice to adjoining landowners. The parties have agreed that so long as Ellwood Ranch applies for such a revision to the LUP before Board action on this appeal, this issue is resolved.

Finally, the parties discussed road improvements required by Condition #56. Mr. Pulice stated that he sought certainty by defining the manner in which road improvements would be made. After discussion, it was recognized that ultimately staff would be required to determine the adequacy of any road improvement proposals made to satisfy Condition 56(b). The parties ended the first meeting by agreeing to meet again on November 27, to confirm resolution of various appeal issues and focus discussion on Condition #56. (After the November 6 facilitation meeting, the applicant and Winchester Commons HOA agreed to permit revisions that completely resolve the HOA’s appeal. See attached correspondence dated November 8 and November 22, from Hollister & Brace.)

At the November 27 meeting, the parties confirmed resolution of the HOA appeal issues and commenced discussion of proposals to satisfy the road repair and maintenance plan requirements of Condition 56. After extended discussion, the parties agreed to meet again on December 19 after P&D staff had the opportunity to review proposals identified by the applicant and Mr. Pulice at the meeting. On December 19, the parties again discussed various road improvement plans and alternative conditions. It became apparent that the road improvement proposal to which the applicant and appellant could conceptually agree raised concerns to P&D staff. As all other issues had been resolved, P&D staff worked with the applicant and Mr. Pulice to identify a revised condition that would be satisfactory to staff. The proposed revised Condition #56 as recommended by staff on pages 6-7 of the Staff Report has been agreed to by Mr. Pulice and the applicant. Accordingly, the facilitation process has resulted in a staff recommendation that resolves all appeal issues and is acceptable to all parties to this appeal.

\\als\lane 2003\ellwood quarry\1-13-03supervisors.mem.doc