

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
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## Agenda Number:

**Prepared on:** January 9, 2003  
**Department Name:** P&D  
**Department No.:** 053  
**Agenda Date:** January 21, 2003  
**Placement:** Departmental  
**Estimate Time:** 1.0 hours  
**Continued Item:** NO  
**If Yes, date from:**  
**Document File Name:** F:\GROUP\Permitting\Case  
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**TO:** Board of Supervisors

**FROM:** Rita Bright, Planning Commission Secretary  
Planning and Development Department

**STAFF**

**CONTACT:** Brian R. Baca, Engineering Geologist, 568-2004  
Jackie Campbell, Supervising Planner, 568-2076

**SUBJECT:** Hearing to consider the Massey and Pulice appeals of the Planning Commission's decision to approve the Ellwood Quarry Revised Conditional Use Permit (02CUP-00000-00006). The proposed revised Conditional Use Permit involves AP No. 079-100-017, located on Ellwood Ranch about one-half mile north of Cathedral Oaks Road, Goleta area, Third Supervisorial District. P&D Case Numbers 02APL-00000-00033 (Massey) and 02APL-00000-00034 (Pulice).

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## Recommendation:

That the Board of Supervisors:

1. Uphold, in part, the Massey appeal of the Planning Commission's decision to approve 02CUP-00000-00006;
2. Uphold, in part, the Pulice appeal of the Planning Commission's decision to approve 02CUP-00000-00006;
3. Adopt the findings, including CEQA findings, included in Attachment C of this Board Agenda Letter;
4. Find that the Addendum dated July 31, 2002 together with the previously certified Environmental Impact Report (87-EIR-3) have been completed in compliance with CEQA and are adequate for the proposed project, and;
5. Approve Conditional Use Permit 02CUP-00000-00006 for Ellwood Quarry subject to revised conditions of approval, incorporating a revised condition of approval #56 as identified through the facilitation process, included in Attachment D of this Board Agenda Letter.

**Alignment with Board Strategic Plan:**

The recommendation is primarily aligned with actions required by law or by routine business necessity.

**Executive Summary and Discussion:**

Resolution of the appeals:

As discussed in this Board Agenda Letter, all of the appeal issues have been resolved through modifications of the conditions of approval identified during the County Counsel facilitation process.

Background:

Ellwood Quarry is an existing mining facility that produces sand through the excavation of a Vaqueros Formation outcrop located about one-half mile north of Cathedral Oaks Road in the Goleta area. Conditional Use Permit 86-CP-060 and Reclamation Plan 86-RP-003 were approved for this facility by the Board of Supervisors on October 19, 1987. Conditional Use Permit 86-CP-060 authorized mining activities for a 15-year period ending on October 19, 2002. Due to market demand lower than originally estimated, the mining authorized under 86-CP-060 was not completed within the 15-year timeframe originally estimated. Condition of Approval #6 of 86-CP-060 states that “the Planning Commission may extend this fifteen year deadline after a public hearing, and with good cause shown by the applicant.” The operator requests that Condition #6 be modified to extend the timeline for completion of mining by 20 years to December 31, 2022.

The total excavation volume authorized by 86-CP-060 is 1,135,000 cubic yards. Of this total, 675,000 cubic yards of material remains within the limits specified in the original permit and reclamation plan. Due to design adjustments in the excavation plan (refer to Exhibit D of the proposed revised reclamation plan) that reflect the geologic conditions encountered during mining, the total volume proposed to be excavated has been reduced to an estimated 1,028,250 cubic yards. Of this volume, 568,250 cubic yards of sand remains to be produced. At a minimum average annual production rate of 28,500 cubic yards per year, it would require approximately 20 years to complete mining. At the average annual production rate experienced over the past ten years, 45,722 cubic yards/year, completion of mining could occur in approximately 13 years. As indicated above, the applicant proposes to extend the timeframe for completion of mining for 20 years to account for potential future downturns in market demand.

At its September 4, 2002 hearing, the Planning Commission approved on a 3-2 vote a Revised Conditional Use Permit for Ellwood Quarry. The Revised CUP, if upheld by your Board, authorizes mining activities to continue at Ellwood Quarry for an additional 20 years to December 31, 2022.

The Massey and Pulice appeals (Attachments B and C) of the Planning Commission’s decision were filed on September 16, 2002. Discussed below are the issues raised in each of these appeals along with proposed modifications of permit language proposed by the applicants and appellants to resolve the appeals.

Massey Appeal:

An appeal was filed by Barbara Massey on behalf of the Winchester Commons Homeowners Association. It is asserted in this appeal that the project as approved by the Planning Commission is “in violation of Article

III, Sec. 35-315.12” because “it does not protect residents from air pollution and noise”, would cause serious disruption of the neighborhood character, and would not preserve “public peace, health and safety.” The appeal makes the following statements to argue that findings of approval for the Conditional Use Permit cannot be made:

- 3.1.2 Adverse environmental impacts have **not** been mitigated to the maximum extent feasible.
- 3.1.3 Streets are **not** adequate and properly designed to carry the type of traffic generated by the proposed use.
- 3.1.5 This project **will** be detrimental to the health (air pollution and dust), safety (trucks on wrong side of road), comfort (noise and dust) and general welfare of the neighborhood.
- 3.1.6 This CUP is **not** in conformance with Article III in that it does not preserve the neighborhood character nor does it preserve or enhance the public peace, health, safety, and welfare.

The Massey appeal also questions the appropriateness of the following conditions of approval:

- #8: It is asserted in the appeal that the revised condition language would result in a doubling of truck traffic associated with Ellwood Quarry.
- #22: The appellant questions the requirement that trucks use Cathedral Oaks Road to reach US 101 based on traffic safety concerns.
- #50: The appellant states that the County “should not permit the reclamation to be extended beyond three years without a noticed public hearing.”

The appellant also questioned the effectiveness of County staff in monitoring compliance of the facility operator with conditions of approval.

**Staff analysis:** As a result of meetings between the applicant and the appellant (Ms. Massey) facilitated by the County Counsel’s office, agreement was reached on a number of changes to project conditions of approval which resolved the issues raised by the Winchester Commons Homeowners Association. Proposed revisions of the subject conditions of approval, consistent with the agreement reached between the parties, are presented below.

- ~~6. Upon the issuance of a Land Use Permit (refer to Condition #4 above), this permit shall be effective until December 31, 2022 or the date upon which the quarry slopes reach final grade as specified in the approved reclamation plan, whichever occurs first. The applicant may request a modification of this condition of approval in accordance with the procedures established at the time of the request.~~
- 6. Upon issuance of a Land Use Permit (refer to Condition #4 above), this permit shall be effective for a period of fifteen (15) years subject to adjustment as follows: If during the fifteenth (15<sup>th</sup>) year after issuance of the Land Use Permit, the volume of remaining sand reserves is determined by the County

to be 50,000 cubic yards or more, Condition #50 shall then apply in the same manner as if sand reserves were then determined to be 50,000 cubic yards or less.

During the fifth (5<sup>th</sup>) year after issuance of the Land Use Permit, the Planning Commission shall hold a public hearing to review the permit compliance record of the operation.

During the tenth (10<sup>th</sup>) year after issuance of the Land Use Permit, the Planning Commission shall hold a public hearing to review the permit compliance record of the operation. If determined by the Planning Commission that the existing permit conditions are inadequate to effectively minimize adverse effects caused by the project, the Planning Commission may impose other reasonable and feasible permit conditions to further reduce these effects. In considering whether to impose any such other conditions, the Planning Commission shall consider the economic burdens to be imposed, the benefits to be derived from the new condition, and the remaining permitted life of the operation.

8. The owner of the property and the operator of the sand quarry, Santa Barbara Sand and Topsoil, shall limit diesel sand transport trucks to 96 ~~average~~ daily trips (ADT) (48 trips in and 48 trips out) in any one day with a maximum total of 13,440 trips/year. ~~Truck trips in any one day shall not exceed 192 trips (96 trips in and 96 trips out).~~ Operations would occur weekdays excluding national holidays.

**Monitoring:** County staff would monitor compliance with this condition by reviewing quarry records during the annual SMARA inspection and by response to complaints by the public.

22. Quarry truck traffic exiting the quarry shall use Cathedral Oaks Road and Calle Real to travel between the mining site and U.S. 101.
50. This permit shall expire and the site reclaimed in accordance with the approved reclamation plan within three years of a determination by the County that the volume of remaining sand reserves within the approved excavation is 50,000 cubic yards or less. This time period may be extended once, not to exceed one year, by the Director of Planning and Development for good cause shown. Any extensions thereafter must be approved by the Planning Commission.
55. In order to minimize dust emissions from sand transport trucks, the bed of all trucks carrying sand produced by Ellwood Quarry shall be covered with a tarp. **Plan Requirements and Timing:** Signs stating this requirement shall be placed on the mining site prior to issuance of the Land Use Permit required to effectuate Conditional Use Permit 02CUP-00000-00006. The use of tarps to cover all loads shall commence immediately upon the initiation of operations under the authority of 02CUP-00000-00006 and the associated Land Use Permit.

**Monitoring:** P&D staff shall inspect the trucks to assure compliance during the annual inspection required by the Surface Mining and Reclamation Act (SMARA). P&D and APCD staff shall also respond to complaints from the public. The operator shall monitor compliance with the tarping requirement by inspection of each exiting truck to verify that loaded trucks are tarped before leaving the mining facility.

57. (New condition) The operator shall deliver to the Winchester Commons Homeowner's Association written notice of the name and telephone number of a contact person designated to receive any complaints about the mining operation from residents or other members of the public. The operator of Ellwood Quarry shall maintain a written log of any such complaints received and provide a copy of the log to the Planning and Development Department upon request.

With the incorporation of these changes into the conditions of approval for the Ellwood Quarry Revised Conditional Use Permit, the issues raised in the Massey appeal would be resolved. As these changes would not involve any discernible new environmental impacts and would serve primarily to increase oversight of this mining facility, P&D staff recommends that the Board adopt these changes in project conditions.

Pulice Appeal:

The Pulice appeal lists four issue areas raised as the subject of the appeal including:

1. Inadequate and Unsafe Access:

The issue of a potentially unstable section of the main access road to the quarry was raised by the appellant in testimony before the Planning Commission. P&D staff agreed with the appellant that the adequacy of a section of Ellwood Canyon Road was in question and recommended that Condition of Approval #56 be added to the project approval. This condition was adopted by the Commission and reads as follows:

56. Adequate access to Ellwood Quarry shall be provided. **Plan Requirements and Timing:** Prior to the issuance of the Land Use Permit required to effectuate this Conditional Use Permit, the applicant shall:

- a. Demonstrate through adequate analysis and report that the segment of the access road near the intersection of Ellwood Canyon Road and Ellwood Ridge Road meets roadway standards for width, gradient and surfacing, and meets established standards of slope stability as determined by County staff, or;
- b. Provide a Road Repair and Maintenance Plan for review by P&D and the County Fire Department. Upon approval of the Plan by P&D and the Fire Department, the repairs must be completed prior to February 28, 2003. In the alternative, the Land Use Permit can be approved and issued prior to February 28, 2003 with the submittal by the applicant of a financial assurance for the approved road repairs. In this case, the repairs shall be completed within six months after issuance of the Land Use Permit.

In order to meet the terms of this condition, the operation of Ellwood Quarry under the existing Conditional Use Permit (86-CP-060) is authorized to continue until February 28, 2003. *For good cause shown, the Director of Planning and Development may extend this authorization, and the February 28, 2003 deadlines indicated above, for up to 60 days.*

**Monitoring:** P&D staff shall review and accept, if adequate, the documentation provided by the applicant regarding the condition of the access road. P&D and Fire Department staff shall review and approve, if adequate, any proposed Road Repair and Maintenance Plan. P&D staff shall also review for adequacy any proposed financial assurance.

The appellant desires to have greater certainty as to the details of road repairs that would be required under this condition.

**Staff analysis:** Condition #56, as approved by the Planning Commission (see above), would assure that adequate access that meets all roadway standards, including slope stability, is available to the proposed project. As part of the County Counsel facilitation process, the appellant and applicant have jointly proposed the following substitute language for Condition #56:

56. In order to ensure continued adequate access for this project, Ellwood Canyon Road shall be improved as follows:
  - a. Within 90 days after issuance of the Land Use Permit required to effectuate this Conditional Use Permit, the applicant shall submit for County approval a plan to modify approximately 80 feet in length of the road area near the intersection of Ellwood Canyon Road and Ellwood Ridge Road by moving the center line of the road to the east away from the bank of the creek by approximately 8 feet and installing retaining walls along the east side of the roadway as needed. The applicant shall complete construction of the improvements within 6 months after obtaining all requisite agency and any necessary adjacent landowner approvals.
  - b. The distance from the top of the bank of the creek to the center line of Ellwood Canyon Road (as improved pursuant to paragraph a. above) shall be measured semi-annually, beginning 6 months after these improvements are completed. If, as a result of any erosion of the bank of the creek, the distance between the top of the bank of the creek to the center line of the road becomes reduced to eight feet or less and the total paved width of the road becomes reduced to 16 feet or less, the applicant shall within 6 months thereafter submit for County approval a plan to further improve this portion of Ellwood Canyon Road so as to minimize the risk of failure of the road. The applicant shall complete construction of such further improvements within 9 months after obtaining all requisite agency and any necessary approvals.
  - c. The Director of P&D may extend any of the above time periods for up to 90 days each for good cause.

This proposed revised language is not consistent with the condition as adopted by the Planning Commission in that the repaired or improved section of the roadway would not be required to meet established standards of slope stability, the repairs would occur *after* rather than before issuance of the Land Use Permit and would not require a financial assurance be posted if road repairs are delayed. Provided below is a Staff-revised version of the applicant/appellant-proposed condition which addresses some of these issues:

56. Improvements to the existing access to Ellwood Quarry shall be provided. **Plan Requirements and Timing:** Prior to the approval of the Land Use Permit required to effectuate this Conditional Use Permit, the applicant shall submit for County review and approval a plan to modify a segment of Ellwood Canyon Road approximately 80 feet in length located near the intersection of Ellwood Canyon Road and Ellwood Ridge Road. The modifications of Ellwood Canyon Road to be included in this plan shall provide for increased roadway (slope) stability, reduced roadway gradient and new roadway pavement. The width of the modified roadway (including unpaved shoulders) shall be a

maximum of 20 feet with a maximum of 16 feet of paved surface. Any portion of Ellwood Ridge Road required to be modified as a result of an approved plan shall meet the same standards. The height of any retaining walls shall be minimized as part of the roadway improvements. The proposed repairs shall be limited to the existing roadway easement of Ellwood Canyon Road unless a revised easement or other agreement with all underlying property owners is in force. The applicant shall complete the required repairs within 180 days of the approval of the Conditional Use Permit and prior to the approval of the Land Use Permit. In the alternative, the Land Use Permit can be approved and issued prior to the 180-day deadline with the submittal by the applicant of a financial assurance for the approved road improvements. In this case, the improvements shall be completed within six months after issuance of the Land Use Permit.

In order to determine when future improvements are required, the distance from the top of the bank of the creek to the center line of Ellwood Canyon Road shall be measured annually, beginning immediately after the improvements are completed. If the width of the remaining roadway surface measured from the top edge of the slope that descends to Ellwood Creek to the eastern edge of the roadway surface (including unpaved shoulder) is found to be sixteen (16) feet or less, the applicant shall within 3 months thereafter submit to the County a Land Use Permit application that includes an engineering plan to further improve this portion of Ellwood Canyon Road to minimize the risk of failure.

If a segment of Ellwood Canyon Road is determined by Planning and Development to be unsafe for quarry traffic, truck transport of mined material on this road shall cease until road repairs are completed to the satisfaction of the P&D Director.

The Director of P&D may extend any of the above time periods for up to 90 days each for good cause.

**Monitoring:** P&D and Fire Department staff shall review and approve road improvement plans. P&D staff shall also review for sufficiency any proposed financial assurance. The condition of the roadway shall be monitored by P&D staff during the annual inspections of Ellwood Quarry required by SMARA.

The above revised condition would not stabilize the subject segment of roadway such that it would meet current standards of slope stability. It would, however, result in improved site access with a greater degree of stability and safety than is currently available to the quarry and other uses. For the purpose of allowing continued mining at an existing facility in an area where the subject activity (mining) has historically occurred for decades, and to resolve the appeal, staff recommends that your Board find that this revised condition is sufficient to make the finding that adequate site access would be available to the project and incorporate it into the final conditions of approval.

The remaining issues raised in the Pulice appeal have been resolved as explained below.

2. Excessive traffic:

The appellant asserts that Condition #8 should be revised to reduce the number of daily truck trips in proportion to the lower annual material production rate. The appellant also asserts that the truck trip limit should be cumulative for all truck trips generated on the property. In particular, the appellant desires to include the truck trips of an existing permitted agricultural landfill operation in any limitation.

**Staff analysis:** The appellant (Mr. Pulice) and applicant have agreed on a resolution of this aspect of the appeal through the limitation of truck trips associated with the Ellwood Quarry operation. Mr. Pulice concurs with the other appellant (Massey) on the revised language of condition of approval #8 for Ellwood Quarry that limits truck trips to no more than 96 (48 in and 48 out) in any one day. With adoption of this revised condition, this aspect of the appeal is resolved.

3. Term of time extension [term of Revised CUP] should be reduced:

The appellant asserts that the approved 20-year permit life approved by the Planning Commission is not justified by the remaining reserves and historic sand production rates. The appeal requests that the permit term be reduced to 10 years.

**Staff analysis:** The appellant agrees with the revised language of condition of approval #6 limiting the term of the permit to 15 years as discussed above. With adoption of this revised condition, this aspect of the appeal is resolved.

4. Inadequate environmental analysis:

The appeal asserts that the environmental review conducted on the project is “inadequate because it is summary and cursory in nature.”

**Staff analysis:** The appellant has indicated that with adoption of the recommended changes to the conditions of approval, this aspect of the appeal is resolved.

Revised Findings of Approval:

The findings of approval (Attachment C) have been revised to incorporate the changes in project conditions of approval discussed above. In addition, Conditional Use Permit finding 3.1.4 has been revised to reflect the requirement of Condition #54 that an onsite septic effluent disposal system be installed at the mining site.

**Mandates and Service Levels:** Pursuant to Section 35-327.3 of Article III of Chapter 35 of the County Zoning Ordinances, the decisions of the Planning Commission may be appealed to the Board of Supervisors within ten days of the date of the Planning Commission’s action.



**Fiscal and Facilities Impacts:** The costs for processing appeals of land use projects are typically provided through a fixed fee and funds in P&D's adopted budget. Fees collected for appeals vary based on the location of the project and who files the appeal. The two appeals were filed by "non-applicants" and a fee of \$435 was collected for each. Planning and Development will offset costs beyond the \$870 collected in appeal fees. The estimated cost of staff time to process this appeal is approximately \$2200 and is budgeted in Development Review South Division, in the Permitting and Compliance Program on page D-266 of Planning and Development's 2002-2003 fiscal year budget.

**Special Instructions:**

Clerk of the Board shall complete noticing in the Santa Barbara News-Press and shall complete the mailed noticing for the project at least ten (10) days prior to the hearing (mailing labels previously provided).

Clerk of the Board shall forward a copy of the Minute Order to P&D, Hearing Support Section, Attn: Cintia Mendoza.

County Counsel will submit a Facilitation Report prior to the Board of Supervisors hearing on this matter.

**Attachments:**

- Attachment A:** Appeal filed September 16, 2002. (Massey; 02APL-00000-00033)
- Attachment B:** Appeal filed September 16, 2002. (Pulice; 02APL-00000-00034)
- Attachment C:** Revised Findings of Approval
- Attachment D:** Revised Conditions of Approval