



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and Development
Department No.: 053
For Agenda Of: 3/2/21
Placement: Departmental
Estimated Time: 1 hour on 3/2/21
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning & Development
Director(s) (805) 568-2086
Contact Info: John Zorovich, Deputy Director, Energy & Minerals Division
(805) 568-2519
SUBJECT: **Pulice Appeal of the Ellwood Quarry Revised Conditional Use Permit and Reclamation Plan, Case Nos. 19APL-00000-00026, 18RVP-00000-00016, & 17RVP-00000-00082, Third Supervisorial District**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On March 2, 2021, staff recommends that your Board take the following actions:

- a) Deny the appeal, Case No. 19APL-00000-00026.
- b) Make the required findings for approval of the project specified in Attachment 1 of this board letter, including CEQA findings.
- c) After considering the environmental review documents included as Attachments 7 and 8 (Addendum dated March 2, 2021 together with the previously adopted Environmental Impact Report 87-EIR-3), determine that as reflected in the CEQA findings, no subsequent Environmental Impact Report shall be prepared for this project.
- d) Grant *de novo* approval of Case Nos. 17RVP-00000-00082 and 18RVP-00000-00016 subject to the conditions included as Attachment 2 of this board letter.

The project site is identified as Assessor's Parcel Number 079-100-017, located at 1300 Ellwood Ranch Road, approximately one-half mile north of Cathedral Oaks Road near the western end of the City of Goleta, within the Third Supervisorial District.

Summary Text:

Project Description

At the Ellwood Quarry, Santa Barbara Sand Company mines yellow sand which is used by private parties and public agencies in local construction projects. The proposed Ellwood Quarry Revised Conditional Use Permit and Reclamation Plan consists of a request to extend the termination date of the mining operations at the existing Ellwood Quarry to December 31, 2043 to allow additional time to complete mining of the onsite sand resource. The revision would update the current Conditional Use Permit 02CUP-00000-00006 and Reclamation Plan 02RPP-00000-00001 to reflect the longer period of mining activity. No substantial changes are proposed to the mining operation or reclamation activity as originally approved other than to extend the termination date of mining. Please refer to Condition 1 in Attachment 2 to this board letter for a detailed project description.

Background

On July 31, 2019, the Planning Commission approved the Ellwood Quarry Revised Conditional Use Permit and Reclamation Plan project. As part of their approval, the Planning Commission found the proposed project to be in conformance with applicable Santa Barbara County Comprehensive Plan policies including the Goleta Community Plan, the Santa Barbara County Land Use and Development Code requirements, and the California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15164. These policies, development standards, and requirements are discussed in detail in the Planning Commission staff report, dated March 15, 2018 (Attachment 4). In their decision to approve the project, the Planning Commission weighed all of the evidence presented to them, including public testimony by the appellant.

Appellant Appeal Topics and Staff Responses

On August 12, 2019, the appellant's attorney Susan Petrovich filed a timely appeal of the Planning Commission's July 31, 2019 decision to approve the project on behalf of William R. Pulice. The appeal application (Attachment 9) contains a letter describing the issues raised in the appeal, which focuses on concerns related to traffic, air quality, noise, cumulative impacts, CUP conditions of approval and agricultural reclamation activities that occur separately at the site. The appellant and project applicant teams had requested time to work together since the July 2019 Planning Commission action to resolve the various appeal issues. However, negotiations and mediation were not effective and the two parties were not able to resolve the issues described herein. These appeal issues and staff's responses are summarized below.

Appeal Issue #1: Environmental Review is Inadequate

- a) **Issue 1a:** The appellant states that the Addendum to the EIR doesn't meet CEQA requirements, as the following information would negate using CEQA Guideline 15164, which allows for a project to use a previous EIR:
 - Landfill and concrete recycling operations have been developed as part of quarry operations. Those operations did not go through environmental review and are a major project change not analyzed in the EIR or 2019 Addendum.
 - Cathedral Oaks Road is no longer a dead-end street as it was in 1987, and traffic from the quarry is no longer confined to Winchester Canyon Road. The current mandate that all truck traffic use Cathedral Oaks Road is a major project change not analyzed in the 1987 EIR.

Staff Response: CEQA Section 15164 allows the use of an Addendum to a previously certified EIR where only minor technical changes or additions are necessary and certain conditions described in Section 15162 calling for the preparation of a subsequent EIR have not occurred: 1) substantial changes are proposed in the project which will require major revisions to the Supplemental EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; 2) substantial changes will occur with respect to the circumstances under which the project is undertaken which will require major revisions to the Supplemental EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or 3) new information of substantial importance which was not known and could not have been known at the time the previous Supplemental EIR was certified as complete has become available. The proposed project includes the extension of an existing mining operation with no proposed changes in mining activities or locations. Because the certain conditions described in 15162 calling for preparation of a subsequent EIR are not triggered by the proposed project, an Addendum was prepared.

The “landfill” operation the appellant refers to is actually an agricultural reclamation project permitted in 1994 under permit number 94-LUS-011 which generates less than 5 truck trips per day on average. The use of an unrelated portion of the subject property for a separately permitted agricultural reclamation project does not necessitate the preparation of a subsequent EIR for the proposed mining extension. Further, the proposed project would reduce the current limit of 96 truck trips per day (48 trips in and 48 trips out) to 40 truck trips per day (20 trips in and 20 trips out) which would continue the existing pattern of traffic according to the June 22, 2018 “Baseline and Cumulative Traffic Analysis” prepared by Associated Transportation Engineers (ATE) (Attachment 1 of the Addendum included herein as Attachment 7). As such, traffic included with the proposed mining extension would be less than the traffic approved for the existing operation and therefore lessen traffic impacts to the surrounding area and all route intersections. Similarly, the circumstances associated with Cathedral Oaks Road and Winchester Canyon Road and the truck routes used by haul trucks to and from the site and do not necessitate the preparation of a subsequent EIR as these routes have not changed since the original CUP approval in 2002 (Condition No. 22 of 02CUP-00000-00006). The current truck route from Ellwood Canyon Road to US 101 using Cathedral Oaks Road is a direct route to the freeway which avoids travel through the City of Goleta and presents less traffic impact than the route referenced by the appellant which would utilize Calle Real and Winchester Canyon Road to access US 101.

Appeal Issue #2: Traffic/Circulation

- a) **Issue 2a:** The appellant states that the Addendum to the EIR doesn’t contain an analysis of the traffic impacts on Cathedral Oaks Road. Since the original approval, adjacent parcels around the project site have been developed into single-family residences and additional agriculture operations, resulting in more residential traffic on Ellwood Canyon Road, which is the egress and ingress point to the quarry and adjacent parcels.

Staff Response: Traffic for the existing mining operation was analyzed in the previously certified 87-EIR-3. Impacts on traffic and circulation due to truck trips associated with sand deliveries from Ellwood Quarry were determined in 87-EIR-3 to be less than significant. Additionally, the cumulative section of 87-EIR-3 identified that additional housing units were anticipated to be constructed in the area surrounding the mine site at that time and traffic in the immediate area would increase due to this new development. The Addendum to 87-EIR-3 prepared for the current

project did analyze the changes in traffic between the existing approved mining operation and the proposed mining extension including the use of Cathedral Oaks Road and concluded that there are no new impacts and no increase in the severity of previously identified impacts. The proposed project would reduce the current limit of 96 trips per day (48 trips in and 48 trips out) to 40 trips per day (20 trips in and 20 trips out) according to the June 22, 2018 “Baseline and Cumulative Traffic Analysis”. The ATE report describes existing conditions of the area road network including Cathedral Oaks Road, levels of service and a cumulative analysis of area roadways and concluded that impacts are less than what was originally identified in the 1987 EIR because daily trips would be reduced from a maximum of 96 to 40 for the proposed project. Further, the current truck route from Ellwood Canyon Road to US 101 via Cathedral Oaks is a more direct route to the freeway which avoids travel through the City of Goleta and presents less traffic impact than the previously approved route which utilized Winchester Canyon Road and Calle Real to access US 101.

The report also concludes that the Project generates 1 to 3 trips during the A.M. peak hour and 0 trips during the P.M. peak hour at study-area intersections.

- b) **Issue 2b:** The appellant states that the traffic report which supports the 2019 Addendum to the EIR is not sufficient because it doesn’t address the safety inadequacies of the intersection of Cathedral Oaks Road and Ellwood Ranch Road.

Staff Response: There are no known “safety inadequacies” at the intersection of Cathedral Oaks Road and Ellwood Ranch Road. Cathedral Oaks Road includes a northeast bound left turn pocket onto Ellwood Ranch Road. The ATE report shows that this intersection is currently operating well below design capacity as Ellwood Canyon Road has a design capacity of 5,000 trips per day but currently receives approximately 250 trips per day whereas Cathedral Oaks Road has a design capacity of 14,300 trips per day but only receives approximately 3,200 trips per day. According to the County Sheriff’s Department records, there are no known instances of traffic collisions or other safety-related incidents which involve project generated truck traffic at this intersection. The intersection of Cathedral Oaks Road and Ellwood Ranch Road are adequately designed for the vehicle traffic they receive.

- c) **Issue 2c:** The appellant states that the Traffic Report provided in the Addendum to the EIR does not analyze the cumulative impacts of traffic from the quarry, landfill, and concrete recycling facilities’ operations. In addition, the appellant asserts that the Addendum is inadequate because the 1987 EIR estimated 96 daily truck trips with 15 cubic yards of material per load occurring 140 days per year; however, the quarry operates year round which leads to an underestimate of daily truck trips.

Staff Response: The June 22, 2018 ATE traffic report describes existing conditions of the area road network, levels of service and a cumulative traffic analysis. Per the report, existing traffic volumes were obtained from updated traffic counts completed in November of 2017. Cumulative traffic volumes were forecast for the study-area roadways and intersections assuming development of the approved and pending projects located within the study area. Traffic generated by the agricultural reclamation project and the previously existing concrete recycling activity are not specifically called out in the cumulative analysis because the reclamation traffic is part of background existing conditions and the recycling activity has been discontinued. The report concludes that cumulative traffic would operate at LOS B or better at study-area intersections. The report also concludes that the Project generates 1 to 3 trips during the A.M. peak hour and 0 trips during the P.M. peak hour at study-area intersections; thus the project does not present the potential to create project specific or cumulatively significant traffic hazards.

With respect to daily trip generation, the proposed project would reduce the current limit of 96 truck trips per day (48 trips in and 48 trips out) to 40 truck trips per day (20 trips in and 20 trips out). The agricultural reclamation project generates approximately 4 trips per day (personal communication with operator). There are no known, documented or confirmed instances where the applicant/operator has exceeded their daily truck trip limitation. The traffic analysis in the 1987 EIR estimated that the Ellwood Quarry would experience approximately 140 days where truck trips were necessary to the mining operation of the quarry. However, there are no permit or operational restrictions on the number of days the existing mining operation may conduct trucking. In addition, the number of days when material is trucked is unrelated to the number of daily truck trips. As noted, the applicant is proposing to cap the number of daily truck trips to 40 which is significantly lower than the estimated number of daily truck trips in the EIR (96).

Further, the total number of annual truck trips is also proposed to be less under the mining extension than under the existing approved operation. The mine operates during weekdays only, of which there are approximately 261 weekdays per year. At the previously approved limit of 96 trips per day multiplied by 140 days, a maximum of 13,440 total trips were possible. Now, with the reduction to 40 trips per day multiplied by 261 days, a maximum of only 10,440 trips would be possible. The daily truck trips for the current project are not underestimated.

- d) **Issue 2d:** The appellant states that Ellwood Ranch and Ellwood Canyon Roads are narrow and winding with blind curves, and that the quarry trucks are too long and ungainly, risking a collision and obstructing traffic on both Ellwood Canyon Road and Cathedral Oaks Road. The road (Ellwood Ranch Road) should be improved and widened up to County standards (24 feet of paved width plus 6-foot shoulders of each side).

Staff Response: According to the ATE traffic report, Ellwood Ranch Road is a seldom traveled roadway currently operating well below its design capacity of 5,000 trips per day with approximately 250 actual trips per day. There are no known instances of traffic collisions or other safety-related incidents which involve project generated truck traffic along this roadway. However, in order to address the appellants concerns about roadway deficiencies, the Planning Commission added a condition (Condition 9) to the project which requires the applicant to repair Ellwood Ranch Road with AC paving and also seal the roadway to protect it from weather-related damage. Condition 9 also requires annual inspections of Ellwood Ranch Road to ensure it is maintained in an acceptable condition. Public Works staff has visited the site to inspect Ellwood Ranch Road and finds that with these improvements the roadway would continue to be adequate to serve existing and reasonably foreseeable traffic.

- e) **Issue 2e:** The appellant states that the absolute daily cap on truck traffic for the project has periodically been exceeded when sand demand peaked.

Staff Response: The appellant provided no evidence to support this assertion and staff has not been able to corroborate this claim. There are no known, documented or confirmed instances where the applicant/operator has exceeded their daily truck trip limitation (currently 96 trips).

- f) **Issue 2f:** The appellant states that the following required improvements to Ellwood Canyon Road, as conditioned with the original project approval, have not been implemented since 2002:

- There is no signage instructing trucks to slow at the blind curve.
- There is no left turn pocket to accommodate quarry traffic making a left turn off Cathedral Oaks Road onto Ellwood Canyon Road.

- There is no striping on Ellwood Canyon Road to keep traffic in designated lanes.
- There is no speed limit or warning signs.
- There have been no improvements to the road surface, which is in deplorable condition.

Staff Response: The improvements to Ellwood Ranch Road mentioned by the appellant above are not required project conditions. However, Conditions 9 and 56 of the Conditional Use Permit 02CUP-00000-00006 and the Public Works condition letter dated June 19, 1987 require various improvements be made by the applicant/operator to Ellwood Ranch Road. The new conditions of approval require that Ellwood Ranch Road be maintained with a minimum road width of 16 feet of paved material (Condition 56); and be repaired with AC paving and sealed with appropriate material (Condition 9). The 1987 Public Works condition letters required the striping of Winchester Canyon Road, but not Ellwood Canyon Road as the appellant cites. Road width and striping improvements were completed in conjunction with the originally approved project and were cleared by Public Works staff in the early 2000's. Repairing and resealing improvements were added to the project by the Planning Commission when they revised Condition 9 and must be commenced within 60 days of issuance of the Zoning Clearance related to the revised CUP and completed within one year from issuance of the Zoning Clearance. Please see the response to Appeal issue 2d above for further discussion related to the appellants concerns related to alleged roadway hazards of Ellwood Ranch Road.

- g) **Issue 2g:** The appellant states that the traffic generated in association with completing the quarry's reclamation, which requires the spreading of adequate topsoil (approximately 250,000 cubic yards according to appellant) to foster the planting of future orchards, has not been taken into account.

Staff Response: Topsoil to be used as backfill to establish final reclaimed slopes was removed from the original mine site prior to mining activity and is currently stockpiled onsite (page 33 of the Reclamation Plan included as Attachment 6). The stockpiled topsoil will be used and no import of topsoil material will be necessary to complete reclamation.

Appeal Issue #3: Air Quality

- a) **Issue 3a:** The appellant states that the 1987 EIR and the Air Quality analysis provided in the 2019 EIR Addendum does not analyze the cumulative air quality impacts of the quarry operations plus the landfill and recycling facility's operations.

Staff Response: The certified 87-EIR-3 includes a cumulative air quality impact analysis as described in the project table on page 3-2 and in the impact discussion on page 3-3 (Attachment 8). The discussion concludes that cumulative air quality impacts in the area of the project site would be significant and that the project's contribution to NOx emissions would also be significant (Class I).

The "landfill" the appellant refers to is an unrelated permitted agricultural reclamation project located in a separate portion of the property. As stated above, the agricultural reclamation project generates approximately 4 trips per day. The trips are comprised of small pickup trucks as well as larger diesel trucks. The "recycling facility" activity was the subject of a zoning violation located within the footprint of the agricultural reclamation project. This activity has since been discontinued and is not included in the cumulative air quality analysis of the Addendum because it no longer occurs. The Addendum includes a cumulative statement for air quality which concludes that cumulative air quality impacts associated with NOx emissions associated with the

mining extension would remain significant, but would not substantially increase the previously-identified significant impact.

Appeal Issue #4: Noise

- a) **Issue 4a:** The appellant states that the 1987 EIR does not analyze the noise impacts of drilling and blasting, which is a new potentially significant impact that has not been identified and studied under environmental review.

Staff Response: Noise analysis of the existing quarry operations and truck traffic was provided in 87-EIR-3 on pages 2-13 through 2-17. The closest sensitive receptor to the Ellwood quarry is located approximately 1,300 feet from the mine pit. Because of the distance between quarry activities and the nearest sensitive receptors, noise levels associated with quarry activities were found to be less than significant and therefore, no mitigation was identified. The EIR does include several mitigation measures to reduce the noise impacts related to truck traffic including a requirement establishing specific truck routes, limited hours for trucking, and road improvements made by the applicant intended to reduce truck-related noise. The applicant does not currently carry out nor propose drilling or blasting as part of the revised CUP and therefore these activities will not occur or result in new potentially significant impacts at the quarry and no analysis of these activities is required. Blasting and/or drilling are not included in the project description, thus if these activities were proposed in the future, a revision to the CUP would be required.

Appeal Issue #5: Safety

- a) **Issue 5a:** The appellant states that the landfill and recycling operation areas are mounds of un-compacted debris that pose a potential for debris flow hazard to Ellwood Creek.

Staff Response: This assertion relates to the onsite approved agricultural reclamation project located in a separate portion of the site and which is unrelated to the proposed project. Issues associated with the agricultural reclamation project are not subject to the requested Conditional Use Permit and Reclamation Plan for the mine and are not a part of the proposed project or its associated CEQA review. Regardless, the “mounds” or stockpiles for the agricultural reclamation project were permitted under a separate Land Use and Grading permit and are no longer present.

Appeal Issue #6: Cumulative Impacts

- a) **Issue 6a:** The appellant states that EIR Addendum does not provide a comprehensive analysis of cumulative impacts, specifically regarding traffic, air, and noise impacts from the project’s quarry, landfill, and recycling facility operations.

Staff Response: The EIR for the approved Ellwood Quarry (87-EIR-3) was certified by the Board of Supervisors on October 19, 1987 in conjunction with Conditional Use Permit 86-CP-060 and Reclamation Plan 86-RP-003. Contrary to the appellant’s assertions discussed above, 87-EIR-3 (Attachment 8) does in fact include an analysis of cumulative impacts. Section 3.1 (Cumulative Impacts) identifies a list of related projects in the vicinity of the project site and also provides a discussion of cumulative effects specifically including traffic, air quality, noise and biological resources. The cumulative analysis project table on page 3-2 in the EIR does not specifically list the agricultural reclamation project (landfill) because it did not exist at that time the EIR analysis was prepared. The “recycling” activity that the appellant refers to was the subject of a zoning violation which has since been abated when the applicant discontinued this activity.

Similarly, the Addendum also includes cumulative impact discussions for traffic, air and noise as discussed in staff responses 2, 3 and 4 above. The Addendum analysis determined that cumulative

impacts associated with the proposed time extension are equal to or less than what was identified in the original EIR, thus no subsequent EIR or ND shall be prepared.

Appeal Issue #7: Project Alternatives

- a) **Issue 7a:** The appellant states that neither the 1987 EIR nor the Addendum includes a discussion of project alternatives.

Staff Response: The EIR for the approved Ellwood Quarry (87-EIR-3) was certified by the Board of Supervisors on October 19, 1987 in conjunction with Conditional Use Permit 86-CP-060 and Reclamation Plan 86-RP-003. Contrary to the appellant's assertion, 87-EIR-3 does in fact include an analysis of project alternatives. Section 3.2 (Project Alternatives) analyzed four separate project alternatives including a No Project alternative, Alternative Quarry Designs, Alternative Uses and Alternative Locations. 87-EIR-3 concluded that the "No-project" alternative was considered to be the environmentally superior alternative and that apart from the no-project alternative, the proposed quarry (now the existing quarry) was considered to be environmentally superior to the other alternatives studied. Addenda are not required to consider additional alternatives and the proposed project would be less impactful than what was originally approved, which was the environmentally superior alternative in the original EIR.

Appeal Issue #8: Violations

- a) **Issue 8a:** The appellant states that several CUP conditions of approval have not been complied with over the years including Condition no. 8 (cap on truck traffic), 9 and 56 (improvements to Ellwood Canyon Road) and 13 (limits on skip loader use).

Staff Response: Condition No. 8 of the original project imposed a truck trip limit of 96 trips per day, (48 truck trips entering and 48 truck trips leaving the site daily). The appellant provided no evidence to support this assertion and staff has not been able to corroborate this claim. There are no known, documented or confirmed instances where the applicant/operator has exceeded their daily truck trip limitation. The proposed project would modify Condition no. 8 to reduce the current limit of 96 trips per day to 40 trips per day (20 truck trips entering and 20 trips exiting the site).

Conditions 9 and 56 of the original project require various improvements to Ellwood Ranch Road including reducing slopes, new roadway pavement and increased roadway width. All of the improvements required by these conditions were completed to the satisfaction of County Public Works in the early 2000s. While ongoing monitoring of the roadway width and corresponding width maintenance (16 foot minimum) was required by these conditions, the applicant is not required by the CUP to maintain the entire length of Ellwood Ranch Road in perpetuity. Because these improvements were made by the applicant in the early 2000s and in order to address the concerns of the appellant, the Planning Commission modified Condition 9 as part of their approval to require that Ellwood Ranch Road again be repaired and sealed and then subsequently inspected annually by County Public Works staff.

Condition no. 13 requires that each load removed from the quarry be sprinkled with water after being loaded into trucks and that the dirt access road near the quarry and loading area be hosed down to control operational dust. During annual SMARA inspections staff reviews this requirement and has consistently found the operator in compliance with this requirement. Staff has not received any formal complaints in this regard and Appellant did not submit any evidence to support this assertion.

- b) Issue 8b:** The appellant states that condition no. 22 requires that all trucks shall use Cathedral Oaks Road instead of Winchester Canyon Road has been ignored consistently, and that trucks exiting Ellwood Canyon Road turn right (Cathedral Oaks Road) in order to reach the Highway 101 interchange more quickly.

Staff Response: The appellant provided no evidence to support this assertion and staff has not been able to corroborate this claim. Trucks exiting the mine facility using Ellwood Ranch Road turn right at the intersection with Cathedral Oaks where they continue to the 101 interchange. Condition of approval No. 22 of the Conditional Use Permit requires that “Quarry truck traffic shall use Cathedral Oaks Road and Calle Real to travel between the mining site and U.S. Highway 101.” The applicant is in compliance with this condition as no project truck traffic utilizes Winchester Canyon Road. The only instance where trucks turn left on Cathedral Oaks is when they are travelling to a job site located in the City of Goleta and use of Highway 101 is not necessary.

- c) Issue 8c:** The appellant states that the condition that the beds of all quarry trucks be covered with a tarp is repeatedly ignored, particularly on trucks with trailers. The appellant states that this condition should be revised to clarify that both the truck and trailer must be tarped.

Staff Response: Condition No. 55 of the Conditional Use Permit requires that all sand transport trucks be covered with a tarp upon leaving the facility. This requirement is sufficiently broad enough to ensure that both the truck and trailer are tarped to reduce dust generation. In the field, the operator ensures this is the case and requires all trucks leaving the facility to tarp both the truck and trailer. Staff has received several complaints about the lack of tarping but has never received factual evidence of such and has not been able to corroborate this assertion in the field. The applicant/operator has a sign posted at the exit of the facility that reminds drivers to tarp their loads. Additionally, the applicant verbally enforces this requirement of all drivers who leave the facility. Finally, County staff verifies that all loads leaving the facility are covered with tarps during the annual SMARA inspections.

- d) Issue 8d:** The appellant states that violation complaints to Planning and Development (P&D) have gone unheeded and undocumented. Further the appellant states that annual monitoring of quarry activities by Planning and Development staff has proven to be inadequate, and that monitoring should include surprise visits every three months, video monitoring, and a 24-hour hotline for neighbor complaints. The appellant also states that the County Planning Commission should conduct a notice public hearing every five years to review permit condition compliance.

Staff Response: Over the last six years, P&D has investigated zoning violation complaints at the site as they were filed. A recent complaint alleged that a concrete recycling activity was being conducted in association with the agricultural reclamation activity on a separate portion of the property. After inspection, staff found there was indeed a violation as the concrete recycling activity was not permitted. The applicant has since ceased the recycling activity and no other violations currently exist. The property is currently in full compliance with approved permits and the County Land Use Development Code. The quarry is subject to annual Surface Mining & Reclamation Act (SMARA) inspections where County staff inspects the site. The quarry operation has consistently demonstrated compliance and therefore, staff believes surprise visits, video monitoring and a 24-hour hotline are not necessary to ensure ongoing compliance.

Condition no. 6 of the original CUP required that the Planning Commission hold a public hearing the fifth and tenth years after approval to review the compliance record of the operation. Condition

6 was satisfied when the Planning Commission conducted the 10-year compliance review on September 10, 2014 and found the operation in compliance with applicable conditions and requirements. In response to the appellant's concerns in this regard, the Planning Commission modified Condition no. 7 to require that the project return to the Planning Commission for compliance reviews every five years after project approval.

- e) **Issue 8e:** The appellant states that the project does not conform to the County's Agricultural Preserve Uniform Rules and the Williamson Act due to existing landfill operations onsite, as the regulations do not allow for landfills except in legitimate agricultural reclamation projects.

Staff Response: Subsequent to the April 4, 2018 Planning Commission hearing, staff received a zoning violation complaint alleging that activities associated with the onsite permitted agricultural reclamation project were being conducted beyond the approved project scope. The onsite agricultural reclamation project was permitted in January of 1994 under permit number 94-LUS-011 and includes the importation of fill material for the purpose of creating areas onsite to support the planting of additional orchards. Under this project, the operator currently accepts concrete and brick construction-related debris which will form the base of the fill area. While accepting, crushing and placing the fill material within the reclamation boundary was determined by P&D to be within the scope of the permit, the offsite sale and transportation of crushed concrete material (recycling) was determined to be a zoning violation. The applicant has since resolved the violation. At this time, there are no active or outstanding zoning violations on the property.

The project site is currently under an Agriculture Preserve contract (77-AP-047). The County's Uniform Rules, governing the Agricultural Preserve program addresses the use of preserve land for mining purposes. Uniform Rule #4 says that "the mining, extraction and quarrying of natural resources are compatible to an agricultural preserve..." The project was originally reviewed by the Agricultural Preserve Advisory Committee (APAC) on October 10, 1986 in association with its original permit request and the Committee found the project consistent with the Uniform Rules. The proposed time extension would not alter or affect the site's enrollment in the County's Agricultural Preserve Program and portions of the property used for mining would be returned to agriculture upon the cessation of mining activities. On May 4, 2018 the APAC found the currently proposed project consistent with the Uniform Rules.

Appeal Issue #9: Applicant's Requested Condition Modifications Should not be Allowed

As part of the proposed project, the applicant has requested that two conditions be modified including; 1) Condition no. 1 (project description of Attachment B-2) be modified to allow the existing truck scale to remain after reclamation of the mine site, and 2) Condition no. 8 be modified to allow transportation of quarry sand outside timing and truck trip limitations during emergency situations. The appellant suggests that these requests are unreasonable and the scale request should be denied, and the emergency condition be modified to ensure more strict controls.

Staff Response: With respect to the request for the existing truck scale to remain after reclamation of the mine site, the applicant stated the reason for the request was to allow the scale to be used for agricultural purposes associated with ongoing and future orchard operations. In addition to mining, the majority of the subject parcel is planted to avocado and citrus orchards. The scale would be used to weigh agricultural products prior to sale and transportation offsite. This request is reasonable, was approved by the Planning Commission and staff recommends it be allowed to remain in the project description.

The applicant has also requested modification of Condition No. 8 to allow for transportation of material for emergency purposes outside of approved hours. This request was also approved by the Planning Commission and would allow the operator to respond to requests for material during an emergency scenario that may involve a threat to public health or safety or natural disaster. The modified condition requires the operator to inform P&D in writing prior to increasing trucking operations or doing so outside of approved hours.

The request to modify Condition no. 8 is as follows:

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~~40 daily trips (~~48~~20 trips in and ~~48~~20 trips out) in any one day ~~with a maximum total of 13,440 trips/year~~. Operations would occur weekdays excluding national holidays, except in emergencies involving threat to public health, safety or welfare. The operator shall inform and obtain approval from P&D in writing of a response to such an emergency prior to increasing trucking activities. **Monitoring:** ~~County staff would~~shall monitor compliance with this condition by reviewing quarry records during the annual SMARA inspection and by response to complaints by the public.*

Because of the requirement to inform P&D of any emergencies which may trigger additional trucking activities, no further modifications to this condition are necessary. Staff recommends that it remain as written.

Appeal Issue #10: Suggested Additional Conditions

The appellant suggests that nine (9) new conditions be added to the project if the Board is to approve it as detailed in pages 12-14 of the appeal letter. These suggested conditions apply to the separately permitted onsite agricultural reclamation project, Ellwood Canyon Road improvements, compliance for the tarping of sand trucks leaving the facility, limitations on the sale of products, weight limits for trucks leaving the facility, limitations on noise-generating quarry activities, a permit re-opener for zoning violations and periodic compliance review of the quarry operations by the Planning Commission.

Staff Response: Staff does not recommend adding these proposed conditions to the project as they are either repetitive with existing conditions or not applicable to the proposed project. As part of their approval of the project, the Planning Commission required the applicant to resurface Ellwood Canyon Road. The Planning Commission did not add conditions related to, compliance for the tarping of sand trucks leaving the facility (Condition No. 55), limitations on the sale of products (Condition No. 1), limitations on noise-generating quarry activities (Condition No. 1), a permit re-opener for zoning violations (Condition No. 10 of the Reclamation Plan) and periodic compliance review of the quarry operations by the Planning Commission (Condition No. 7) because these requirements are all duplicative of existing conditions and therefore, unnecessary. The requested conditions related to the separately permitted onsite agricultural reclamation project are outside the scope of the proposed project. The previous concrete recycling activity was determined to be a zoning violation and has since been discontinued and the violation abated. The mounds of concrete material associated with this activity have been taken down and spread over the site in conformance with the grading plan approved for the agricultural reclamation project.

Appeal Issue #11: Findings Cannot be Made

The appellant claims that many of the required findings for approval of the project cannot be made as detailed in pages 14-16 of the appeal letter.

Staff Response: Findings for approval of the project were made by the Planning Commission as part of their July 31, 2019 approval of the project. These findings are supported by substantial evidence and can be found in Attachment A of the August 2, 2019 Planning Commission action letter which is included herein as Attachment 3. Staff recommends that your Board make the findings as updated (Attachment 1) for approval as part of your action to approve the project on March 2, 2021.

Regarding the CEQA findings, as discussed in responses one through three above, the impacts (project specific and cumulative) to circulation, air quality and noise have been analyzed and will not create any new significant effects or a substantial increase in the severity of previously identified significant effects on the environment nor present new information of substantial importance pursuant to CEQA Guideline 15162.

For the Conditional Use Permit, findings can be made that significant impacts are mitigated to the maximum extent feasible because of the mitigation measures included in from 87-EIR-3, that streets and highways are adequately designed to carry the type and quantity of traffic generated by the project and that the proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area.

And finally, all findings can be made for the Reclamation Plan including that it is consistent with the requirements of SMARA and that the Reclamation Plan has been reviewed and approved by the State Department of Mine Reclamation (DMR).

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$9,500.00 (40 hours of staff time). The costs for processing appeals of projects in the Energy, Minerals & Compliance Division are borne completely by the applicant. Funding for processing this appeal is budgeted in the Planning and Development Permitting Budget Program, as shown on page D-294 of the adopted 2020-2021 Fiscal Year budget.

Special Instructions:

Noticing materials and instructions were provided with the February 9, 2021 set hearing letter. A minute order of the hearing and copy of the notice and proof of publication shall be forwarded to the Planning and Development Department, Hearing Support, Attention: David Villalobos.

Attachments:

1. Findings for Approval
2. Conditions of Approval
3. Planning Commission Action Letter including Findings and Conditions of Approval, dated August 2, 2019
4. Planning Commission Staff Report, dated March 15, 2018
5. California State Division of Mine Reclamation (DMR) Letter, dated May 15, 2018
6. Revised Reclamation Plan, dated December 13, 2017, hyperlink:
<https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgtkqy/file/495395391728>

7. CEQA Addendum to 87-EIR-3, dated March 2, 2021
8. EIR (87-EIR-3), hyperlink:
<https://cosantabarbara.app.box.com/s/q97rv82305oyfnbdjhcyxrrdhu3dgkqy/file/496008485978>
9. Appeal Application to the Board of Supervisors, dated August 12, 2019
10. Planning Commission Memo dated July 31, 2019

Authored by:

Errin Briggs, Supervising Planner, (805) 568-2047
Energy, Minerals & Compliance Division, Planning and Development Department