



**County of Santa Clara
Department of Planning and Development**

95334

DATE: February 21, 2019
TO: Housing, Land Use, Environment, and Transportation Committee (HLUET)
FROM: Jacqueline R. Onciano, Director, Dept. of Planning and Development
SUBJECT: Recent Activities at Stevens Creek and Lehigh Permanente Quarries

RECOMMENDED ACTION

Receive report from the Department of Planning and Development relating to recent activities at Stevens Creek Quarry and Lehigh Permanente Quarry.

FISCAL IMPLICATIONS

There is no fiscal impact associated with receiving this informational report.

CONTRACT HISTORY

Not applicable.

REASONS FOR RECOMMENDATION

This report is intended to provide the Housing, Land Use, Transportation and Environment (HLUET) Committee with information regarding recent activities at Lehigh Permanente and Stevens Creek Quarries. Since the report substantially involves background discussion, information that would typically be presented as part of the report's Background section is instead included just below (i.e., within the Reasons for Recommendation section).

On January 31, 2019, the County received a letter from City of Cupertino Interim City Manager Timm Borden requesting that the County enjoin the sale of aggregate material from Lehigh Permanente Quarry to Stevens Creek Quarry for processing and resale, by February 8, 2019. The Board of Supervisors ("Board") has recently received oral comments from several public speakers under the Public Comment portion of Board's Agenda requesting the County address truck traffic and other public nuisance issues at Lehigh Permanente and Stevens Creek Quarries.

These comments concern the delivery of aggregate material from Lehigh Permanente Quarry to Stevens Creek Quarry for processing and resale and the secondary impacts of this transaction. This report provides a summary of these activities and recent actions by Administration to address the issue.

Overview of Lehigh Permanente Quarry and Stevens Creek Quarry

Lehigh Permanente Quarry is a surface mining operation located at 24001 Stevens Creek Boulevard, in the unincorporated hillside west of the City of Cupertino. In February 2011, the Board determined that certain parcels on the Lehigh Permanente Quarry, including the main quarry pit, were legal non-conforming, or vested, and thus did not require a Use Permit for ongoing surface mining activities. In June 2012, the Board approved an updated Reclamation Plan for the Lehigh Permanente Quarry that requires it be restored to an open space use following the end of the vested surface mining activities. Lehigh Permanente Quarry operates in tandem with an on-site Cement Plant that was established in the 1930s and operates under a Use Permit issued by the County of Santa Clara in 1939. Limestone extracted from mineral deposits at Lehigh Permanente Quarry is conveyed to the adjacent Cement Plant where it is used to manufacture cement.

Stevens Creek Quarry is a surface mining and recycling operation located at 12100 Stevens Canyon Road, in the unincorporated hillside area just west of the City of Cupertino. The Quarry is located immediately south of Lehigh Permanente Quarry. The Quarry consists of two areas, commonly referenced as “Parcel A” and “Parcel B.” Activities on “Parcel A” consist of surface mining and a recycling operation, which was granted a Use Permit and Architectural and Site Approval for operation in 1984. Activities on “Parcel B” consist of surface mining, including the crushing of rock mined at the quarry. Rock materials harvested from onsite mining on both Parcel A and B consist of materials used in road construction and in combination with other materials. On October 8, 2002, the Board adopted a Mediated Agreement addressing the surface mining activities on “Parcel B” of the Quarry. Adoption of the Mediated Agreement was intended to settle an ongoing dispute between the County, neighbors, and Stevens Creek Quarry regarding the impact of ongoing operations on adjacent neighborhood. The Mediated Agreement establishes conditions of approval for ongoing surface mining on Parcel B, which are similar in nature to the Use Permit conditions of approval for Parcel A.

On May 14, 2009, the County’s Architectural and Site Approval Committee approved a Reclamation Plan Amendment for all surface mining operations on Parcel A and Parcel B at Stevens Creek Quarry, requiring restoration of the site to open space following the end of surface mining. On July 21, 2014, Stevens Creek Quarry applied for a renewal of its Use Permit for Parcel A. The Use Permit renewal was scheduled to be heard by the Planning Commission on May 28, 2015, but was continued to a date uncertain and has subsequently expired. On May 16, 2018, Stevens Creek Quarry entered into a Compliance Agreement with the County, acknowledging the existence of onsite violations and establishing a schedule to apply for and obtain a Use Permit and updated Reclamation Plan addressing both Parcels A and B.

Internal Haul Road

During the summer of 2018 and unbeknownst to the County, Lehigh Permanente illegally widened an existing Pacific Gas and Electric (PG&E) maintenance road that internally connects Lehigh Permanente Quarry and Stevens Creek Quarry without permits or any entitlement to do so. Following this illegal road widening, Lehigh Permanente began to use the road to deliver aggregate materials in Quarry trucks from Lehigh Permanente Quarry to

Stevens Creek Quarry for processing and sale, which Stevens Creek Quarry was not allowed to do. In June 2018, County Inspectors first discovered the existence of the unpermitted haul road and on August 17, 2018, issued a Notice of Violation requiring Lehigh to cease use of the illegal haul road unless and until it applied for and obtained a Reclamation Plan Amendment to legalize the road. On November 26, 2018, Lehigh Permanente submitted a Reclamation Plan Amendment to the County that indicated the widened PG&E road would not be used for future hauling and instead identified an alternative, proposed internal haul road connecting the two quarries. As of the date of this report, County staff has scheduled an Incomplete Letter to be sent to Lehigh Permanente on Friday, February 15, 2019 responding to the proposed Reclamation Plan Amendment submittal, identifying incomplete information within the application, and identifying issues associated with the proposal.

Increased Truck Traffic

Following the August 17, 2018, Notice of Violation requiring Lehigh Permanente to cease use of the illegally graded internal haul road, the two quarries began using public streets to convey the aggregate materials between Lehigh Permanente Quarry and Stevens Creek Quarry. Quarry trucks that collect unprocessed aggregate from Lehigh Permanente Quarry travel along Stevens Creek Boulevard, Foothill Boulevard, and then Stevens Canyon Road to deliver the material to Stevens Creek Quarry. Stevens Creek Quarry is processing the aggregate material using a rock crusher on Parcel B of the quarry and then reselling that material. The aggregate collected from Lehigh Permanente consists of greywacke/greenstone, a mineral deposit that Lehigh Permanente does not use for cement production, but instead constitutes a new, expanded use. Stevens Creek Quarry has reported that an average of approximately 169 daily truck trips convey this new material from Lehigh to Stevens Creek Quarry.

On Friday, February 15, 2019, the County issued a Notice of Violation to Stevens Creek Quarry, ordering the Quarry to stop importing, processing, and re-selling of aggregate materials from Lehigh Permanente Quarry because that use violates the County of Santa Clara Ordinance Code and Zoning ordinance and is a unpermitted use under State law

February 15, 2019 Notice of Violation Letter

The County's February 15, 2019 Notice of Violation Letter identifies the importation, processing, and resale of aggregate on Parcel B of Stevens Creek Quarry as a violation of the County Zoning Ordinance, and mandates that the Quarry cease this activity unless and until it obtains a Use Permit from the County. The Notice of Violation references the 2002 Mediated Agreement approved by the Board of Supervisors for activities on Parcel B of the Quarry, which allows onsite surface mining and reclamation, but does not allow for the importation, processing, and resale of offsite-mined materials. If Stevens Creek Quarry does not cease the importation, refining, and reselling aggregate from Lehigh Permanente Quarry, the Notice of Violation informs Lehigh that it will be subject to administrative violation fines of up to \$1,000 per day and other legal action.

February 15, 2019 Incomplete Letter

The County's February 15, 2019 Incomplete Letter to Lehigh Permanente Quarry responds to the November 26, 2018, Reclamation Plan Amendment application that would allow use of use of the internal haul road to deliver aggregate between Lehigh Permanente and Stevens Creek Quarries. The Incomplete Letter references both information missing from the Reclamation Plan Amendment application and permitting issues associated with construction and operation of the haul road. These include the following:

Conformance with Legal Non-Conforming Status – The letter requests Lehigh submit information regarding the proposed use of the haul road to determine if this activity is in conformance with the existing legal non-conforming status of the Quarry. In order to determine if the proposed use of the haul road conforms with the Quarry's legal nonconforming status, the letter requests information related to the following questions:

- Is the haul road incidental or auxiliary to the surface mining operations, as they existed at the 1948 vesting date established for Permanente Quarry in the 2011 Determination?
- Would the proposed use of the haul road substantially change the surface mining operations, as they existed at the 1948 vesting date?
- Would the haul road impermissibly intensify the mining operations?

Stevens Creek Quarry Violation / Conditions – The letter references the February 15, 2019 Notice of Violation issued to Stevens Creek Quarry, identifying that the importation, processing, and resale of aggregate materials on Parcel B of Stevens Creek Quarry violates the Ordinance Code and Zoning Ordinance, and constitutes a public nuisance. The letter also informs Stevens Creek Quarry that the use of an internal haul road conflicts with existing conditions of approval for operations on Parcel B, including the requirement that only three driveways on Stevens Canyon Road be used for ingress and egress into the Quarry.

City of Cupertino Jurisdiction – The letter identifies that a portion of the proposed haul road occurs within the jurisdiction of the City of Cupertino. The letter requests that Lehigh Permanente obtain land use and Surface Mining and Reclamation Act (SMARA) approval to allow use (and reclamation) of the haul road for the portion located within the City.

Environmental Issues – The letter identifies that the proposed haul road is not exempt from CEQA and requests the submittal of technical studies to evaluate potential environmental impacts, including geologic and biological studies.

Next Steps

As directed by the February 15, 2019 Notice of Violation, Stevens Creek Quarry is directed to cease the importation and processing of aggregate materials from Lehigh, which includes use of public roads by Quarry trucks to haul material between the two quarries.

If the Quarries intend to use the internal haul road to deliver aggregate from Lehigh Permanente Quarry to Stevens Creek Quarry, they must address the issues identified in the February 15, 2019 Incomplete letter, which includes obtaining authorization from the City of Cupertino, obtaining a modified use permit at Stevens Creek Quarry, and documenting conformity of the haul activities with the legal non-conforming status.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

BACKGROUND

Please refer to the Reasons for Recommendation section.

CONSEQUENCES OF NEGATIVE ACTION

The Committee would not receive information from the Department concerning recent activities at Stevens Creek Quarry and Lehigh Permanente Quarry.

STEPS FOLLOWING APPROVAL

Not applicable.

