

# County of Santa Clara

Department of Planning and Development  
Planning Office

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STAFF REPORT  
Planning Commission  
April 28, 2016

Item # ~~6~~ 5

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## File: 1253-15PAM Stevens Creek Quarry

*Summary: Annual status report regarding compliance with conditions of approval for Stevens Creek Quarry surface mining operation and concrete and asphalt recycling operations.*

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Property Owner: Richard Voss, Owner Stevens Creek Quarry  
Jason Voss, Quarry Manager

Address: 12100 Stevens Canyon Road, Cupertino, 95014

### RECOMMENDED ACTIONS

It is recommended that the Planning Commission take the following actions:

1. Accept the annual status report regarding Stevens Creek Quarry for the reporting period January 1, 2015 – December 31, 2015.

### PROJECT DESCRIPTION

The Planning Commission will consider the annual status report for reporting period January 1, 2015 through December 31, 2015, regarding the Stevens Creek Quarry (Quarry) compliance with Use Permit 1253-96P condition 53 and the Agreement Regarding Parcel "B" (Agreement, also referred to as the Mediated Conditions) condition 27. The Agreement is the result of the mediation between representatives of Stevens Creek Quarry and Monte Vista, Stevens Canyon Residents Association regarding the

quarry operations. Mediation occurred during August and September 2002, and on October 8, 2002 the Board of Supervisors adopted a resolution recognizing the mediated conditions for Stevens Creek Quarry Parcel B. Both Parcel A and Parcel B are identified on the Quarry's reclamation plan area map, and is Attachment 1 to this report.

The Use Permit and Agreement conditions regarding compliance monitoring state the following:

Use Permit - Condition 53:

*The use permit shall be reviewed at the end of six months (January 1997 Planning Commission meeting) for compliance with all conditions of approval and on an annual basis with a report to be submitted to the Planning Commission on compliance with conditions of the permit. This review shall be limited to compliance with conditions and, absent appropriate findings, shall not result in revision of conditions.*

Mediated Agreement Regarding Parcel "B" - Condition 27:

*The compliance monitoring and enforcement for the provisions of this agreement will utilize the same mechanisms as used for Parcel A.*

County conducted several inspections in 2015, and observed items not in compliance with the Use Permit and the Agreement. These included evidence of erosion and sedimentation issues, and visibility of the recycled concrete stockpile from Stevens Canyon Road. The Quarry has cooperated and installed numerous stormwater control measures and hired a Stormwater Control Manger to help better manage the site, and is researching potential screening of the stockpile and increasing sales of the material. Additional correction items in process, but not directly related to the Use Permit and Agreement, are:

1. Obtaining a building permit for the relocated crusher equipment retaining wall and foundation;
2. Completing a lot line adjustment for an area used in the mining operation but located outside the property and reclamation plan boundary;
3. Completing a new geology report regarding slope stability; and
4. Submitting a determination by the Department of Water Resources regarding the earthen impoundment located between the Upper and Middle Settling Basins.

## **BACKGROUND**

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*a) Stevens Creek Quarry History*

The Planning Commission granted a Use Permit (No. 173.977) on September 20, 1950 for the surface mining operation. On January 10, 1984, the Board of Supervisors approved a use permit with reclamation plan for the front portion of the quarry (Parcel

A). The Board also approved a reclamation plan for the rear portion (Parcel B). On July 5, 1990, the Planning Commission modified the use permit to allow the recycling of materials of concrete, asphalt and natural earth and on November 8, 1990, the Architecture and Site Approval Committee approved an ASA for the recycling facility. On February 6, 1995, the Planning Commission renewed the use permit for a period of twenty years, subject to the original conditions, and authorized on Parcel A the operations of a community recycling staging and composting program by the City of Cupertino. The use permit conditions were further modified by the Board and adopted on December 17, 1996 by resolution to their current form.

The prior actions by the Board relating to Parcel A and B resulted in an ongoing dispute, including litigation, about whether quarrying and related activities are legal nonconforming use on Parcel B. A series of hearings took place during April 2002 through August 2002 by the Board regarding the legal nonconforming use of Parcel B. The Quarry indicated to the Board that it would seek judicial relief if the Board determined that quarry was not a legal nonconforming use on Parcel B. The Monte Vista/Stevens Canyon Neighborhood Association, an unincorporated association comprised of many residents who live near the Quarry, indicated to the Board that it would seek judicial relief if the Board determined that quarry was a legal nonconforming use on Parcel B. In an attempt to avoid litigation and at the County's suggestion, in August, 2002, the Quarry and the Association voluntarily agreed to participate in a County-sponsored mediation program. The Quarry and Association representatives developed a set of operating conditions for quarrying and related activities on Parcel B (commonly referred to as the "Mediated Conditions"). On October 8, 2002 the Board resolution recognizing the Mediated Conditions.

In 2005, during an inspection it was observed that the Quarry had expanded its mining activity to a 1.5 acre fill-area, located west of Parcel B and also a 12.2 acre area located along the eastern property line also Parcel B. On May 14, 2009, the Architecture and Site Approval Committee approved a minor amendment to the Stevens Creek Quarry Reclamation Plan (dated, May 2007), and adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

Collectively, there are 53 conditions in the Use Permit, 36 conditions in the Agreement, and 18 conditions in the ASA. These documents, as well as the 2002 Board Resolution, are Attachment 2.

*b) 2015 County Inspections and Monthly Monitoring*

The quarry and recycling operations were active during the reporting year, and comprise approximately 147 acres of the 167 acre property. Parcel A encompasses 51 acres, and contains the office buildings, scale, recycling stockpiles and concrete crusher, compost distribution operated by the City of Cupertino, as well as stockpile for backfilling the quarry pit, haul road, and lower settling basins and detention ponds. Parcel B encompasses 96 acres and contains the quarry pit, rock crushing, screening, sorting, and

conveying equipment, overburden stockpiles, haul roads, and upper settling basin and detention ponds. Mining extracts Franciscan greenstone used for aggregate. Property to the north, east and west sides of Parcel B is undeveloped and owned by Lehigh Southwest Cement, and Stevens Creek Reservoir is south of the site.

In compliance with the Surface Mine and Reclamation Act (SMARA), as lead agency for SMARA, County staff conducted inspections of the Quarry to ensure mining and reclamation activities were in conformance with the current Reclamation Plan. Inspections during the reporting period included August 27, 2015 and December 22, 2015, and follow up inspections on January 27, 2016 and March 18, 2016. Staff prepared and submitted inspection reports in accordance with SMARA to the California Department of Conservation, Office of Mining and Reclamation (OMR). The County 2015 SMARA inspection reports are included as Attachment 3.

In addition, Planning Office contracts with ICF to conduct monthly monitoring for compliance with use permit conditions #16, 18, 21, 25, 29, 32, 33, 34, 35, 36, 37, and 38 relating to dust, truck loading and vehicle speed, noise, hours of operation, posted signage, and Bay Area Air Quality Management District (BAAQMD) permits.. The monitoring activities include reviewing facility video for compliance with operating hours, truck ticket counts for maximum trucks per day, and confirmation with local agencies regarding complaints relating to noise and dust. The Quarry submits funding to the County annually for all costs relating to the staff compliance and ICF contract. The ICF 2015 compliance summary report confirms the Quarry was in compliance with these condition requirements and is Attachment 4.

*c) Financial Assurance Review*

In accordance with SMARA, Quarry submitted the 2015 Financial Assurance Cost Estimate (FACE) to the County, dated July 2015. The estimate is the cost to reclaim the quarry, in its current condition. The 2015 FACE is \$2,304,756.29, which is an increase of \$1,573,033.45 from the previous reporting year. Following the County's review of the documentation, additional information and reports were requested, and a supplemental report was submitted, January 2016.

Remaining items needing clarification or reporting are: (a) current geology report assessing slope stability, (b) completion of a lot line adjustment between Quarry and neighboring property for an area used in the mining operations, Upper Settling Basin, located outside of the property and Reclamation Plan, and (c) determination from Department of Water Resources regarding the impoundment at the Upper Settling basin. These items are in process and anticipated to be completed late May 2016 for the geology report and impoundment determination, by December 2016 for the lot line adjustment and parcel map recordation. These will be incorporated into the 2016 FACE.

*d) Stevens Creek Quarry Reported Tasks and Work Plan*

For this annual review, the Quarry prepared and submitted a report documenting tasks completed and in process regarding use permit conditions 17, 19, 35, 23, 42, and Agreement conditions 12.h, 13, 15, 22, 18 and 30, and is Attachment 5.

Summary of the tasks completed are:

- Stevens Creek Quarry Compliance Officer (Conditions 17 and 19) – Owner hired a Compliance Officer, March 28, 2016, tasked to monitor truck operations to and from the site. Compliance officer issues notices to truck operators not complying with conditions, similar to written warnings. Also, owner contracts with Sheriff Department to provide additional patrol between Highway 280 and the quarry.
- Signage, Site Policies, Training, and Record Keeping (Condition 35) – Signage maintained on site and property frontage displaying operational policies, copies are provided to drivers, onsite training, and initiated tracking system for noncompliance.
- Stormwater Discharge (Condition 23) – Quarry has an NPDES General Permit issued by the Regional Water Quality Control Board for their industrial water discharges. Quarry tested stormwater discharges and reported results for the reporting year. Quarry installed additional stormwater control measures following the County inspections, and continues working with County to continue with the BMP installations and site management improvements. Quarry hired stormwater management manager to ensure ongoing site improvements are installed and maintained.
- Complaint Hotline Number (Agreement Condition 12.h) – Quarry has signs posted along the property frontage listing the hotline number for complaints regarding dust, noise, jake brakes, etc. Quarry staff responds to each complaint directly, and reported in the monthly monitoring report. No complaints recorded for 2015.

*e) Non-Compliance Items - Use Permit and Mediated Agreement:*

As noted, the staff conducted several inspections during the reporting year, and presently the following items not in compliance with the Use Permit (UP) and Agreement (A) with mediated conditions:

1. Erosion and sediment in adjacent creek (UP Condition 23 and A Condition 18):  
Staff observed siltation and erosion entering the adjacent creek on December 22, 2015 and January 28, 2016, as a result of insufficient stormwater control measures at the Quarry. County staff discussed the areas and made recommendation with Quarry management following the inspections. Quarry quickly contracted with an engineering consultant to assist in designing and installing stormwater control measures throughout the site, including silt fencing to catch sediment, straw

wattles on fill slopes, rock lined ditches and rock check dams along access and haul roads, and covered fill piles in the recycling area.

County inspectors conducted a follow up inspection, March 18, 2016, which following a large rain event and observed improved conditions throughout the quarry. New check dams, rock lined ditches, rock berms and silt fencing were installed and functioned well. The fill slope adjacent to the creek continued to erode, however, the stormwater control measures installed in that area worked and prevented material from entering into the creek. The March 2016 inspection report is Attachment 3.

To achieve compliance, the Quarry shall correct the source of erosion near the creek. Quarry owner and Quarry manager stated their work plan is to “lay-back” the fill slope during upcoming dry season. In addition, they hired an employee to be the Stormwater Manager. Once the fill slope is relocated elsewhere onsite, this condition will be in compliance. The new staff position will help to ensure ongoing stormwater management tasks continue to be installed and maintained.

2. Recycled Concrete Stockpile Visible from Stevens Canyon Road (UP Condition 42 and A Condition 17): – The recycled crusher and stock piles are to be located so that neither are visible from Stevens Canyon road. Presently, the recycled concrete stockpile is large and visible from Stevens Canyon Road.

Currently, the Quarry is reviewing screening alternatives to impede views of the recycled materials from the Stevens Canyon Road as a temporary correction, and developing a work plan to reduce the material through increased local sales as a longer term solution. Once the stockpile is reduced and not be visible from the road, this condition will be in compliance.

3. Truck Queuing Offsite (UP Condition 19 and A Condition 13):and Truck Haul Route - Staff regularly observed trucks queued offsite on the shoulder along Stevens Canyon Road. The haul route is Stevens Canyon Road to Foothill Expressway to Highway 280. On two occasions staff observed trucks traveling on McClellan Road to Stevens Creek Quarry. These items were not in compliance.

To achieve compliance, the Quarry recently hired a Compliance Patrol, consistent with Use Permit Condition 25. This person is responsible for assuring adherence to the Use Permit conditions 25, 32, 33, 34 and 36 relating to hours of operation, truck speed, haul route, no use of Jake brakes, as well as queuing on Stevens Canyon Road. Condition 25 sets forth warning thresholds, as follows:

- a. First infraction – results in a warning letter to truck owner.
- b. Second infraction – results in a 10 day suspension from loading cement or rock products from the Quarry.

- c. Third infraction results in a 30 day suspension, and each subsequent infractions adds another 30 day suspension.
- d. Twelve months without an infraction will clear the record for that tractor and its owner.

Presently, these items are in compliance. The Quarry will continue to monitor and use the warning threshold process set forth in the Use Permit to ensure compliance.

- 4. Excavated cut slope shall be no closer than 25 feet from property line (UP Condition 30 and A Condition 22): The upper quarry north wall is close proximity to the property line. The Quarry installed stakes to demarcate the property line, and measure approximately 30 feet to the quarry wall. The County Surveyor will confirm the placement of the stakes by June 2016.

*f) Use Permit Renewal*

The current Use Permit condition 52, granted a period of 20 years from February 18, 1995 for the quarry operations. Condition 36 of the Agreement provides that the agreement “will be co-terminus with the existing use permit on parcel “A”. Based on the record, the intent of the Board, the Quarry, and the neighbors was that the Agreement would run parallel with the use permit on Parcel A. If the use permit on Parcel A was extended then the intent in 2002 was that the Agreement for Parcel B would also continue.

On December 29, 2014, the Quarry applied for renewal to the use permit requesting to renew for 30 years. The County temporarily stopped processing the application in order for the Quarry to prepare and submit the documents needed for the FACE certification and approval. Staff will restart processing the Use Permit Renewal and an amendment to the Reclamation Plan following receipt of the new geology report and DWR determination.

## **REASONS FOR RECOMMENDATION**

### **1. Reasons for Recommended Actions Concerning Proposal**

- (a) Use Permit 1253, condition 53, requires the use permit be reviewed by the Planning Commission for compliance with all the conditions of approval on an annual basis.
- (b) Agreement Regarding Parcel “B,” condition 27, requires compliance monitoring and enforcement for the provisions of the agreement using the same mechanism.
- (c) County staff conducted site inspections on August 27, 2015 and December 22, 2015.

- (d) County technical consultant, ICF International, conducted 2015 monthly monitoring inspections and reported on compliance for Use Permit conditions 16, 18, 21, 25, 29, 32, 33, 34, 35, 36, 37 and 38.

### **RELEVANT INFORMATION**

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Present Land Use: Stevens Creek Quarry and Recycling Operations  
Supervisory District: Five  
General Plan Designation: Hillside  
Zoning: HS-d1 (Hillside with Design Review Combining District)  
Property Size: 167 acres

### **STAFF REPORT REVIEW**

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Prepared by: Marina Rush, Senior Planner

Reviewed and Approved by: Kirk Girard, Director



### **ATTACHMENTS**

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1. Stevens Creek Quarry Reclamation Plan Area Map – Parcel A and Parcel B.
2. Use Permit 1253 Conditions (September 10, 1996), Architecture and Site Approval Conditions (November 8, 1990), Mediated Agreement Regarding Parcel “B” Conditions and Board Resolution (October 8, 2002).
3. 2015 SMARA Inspection Reports, August 27, 2015, December 22, 2015, January 28, 2016 and March 18, 2016.
4. ICF International, Stevens Creek Quarry Annual Monitoring Report, January 1, 2015 – December 31, 2015.
5. Stevens Creek Quarry Conditions Compliance Report, prepared by Stevens Creek Quarry, date received April 8, 2016.