



Heidelberg Materials

Lehigh Southwest Cement Company
Sanjeet Sen
24001 Stevens Creek Blvd.
Cupertino, CA 95014
Phone (408) 996-4249

August 28, 2024

VIA EMAIL

Mr. Rob Salisbury
Principal Planner, Zoning Administrator and SMARA Program Manager
Ms. Eunice Ban, AICP
Senior Planner
County of Santa Clara
Department of Planning and Development
70 West Hedding Street
County Government Center, East Wing, 7th Floor
San Jose, CA 95110

**Re: File Number PLN24-054
Request for Grading Approval for the Pond 22 Permanente Creek Restoration
Project, 24001 Stevens Creek Blvd., Cupertino, CA 95014 (APNs: 351-10-035, 351-
10-038, and 342-64-003)**

Dear Mr. Salisbury and Ms. Ban,

Lehigh Southwest Cement Company (LSCC) received the County of Santa Clara's Department of Planning and Development's (County) April 2024 notice that its Grading Approval application was incomplete. After initial discussions with County staff, and having participated in a meeting to discuss resubmittal materials on July 23, 2024, LSCC is pleased to submit the enclosed revised Grading Approval package for the Pond 22 Permanente Creek Restoration Project (Project) to the County via the InSite Public Portal. The supplemental information included in the submittal package is described below.

PLANNING OFFICE

1. County Comment: Please complete payment for the initial planning fee of \$4,188.75.
LSCC Response: Payment of the initial planning fee of \$4,188.75 has been submitted.
2. County Comment: Provide grading table on the cover sheet of the plans in tabular format as shown in the checklist and please correct the discrepancy between the grading quantities shown on the plans (Sheet C 9), and the grading quantities specified in the environmental information form.
LSCC Response: A table has been added to the cover sheet of the plans that includes project earthwork quantities. The quantities in that table are equal to the quantities included in the environmental information form.

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3. County Comment: Please verify lot legality for Assessor's Parcel number 342-64-003. Lot legality can be verified by following the guideline. In this particular case, deed of record as of June 25, 1969 or prior would suffice for verification.
LSCC Response: The relevant grant deed from 1939 (File No. 164786) is included with the application submittal, along with the current title report for Assessor's Parcel number 342-64-003, which conditions ownership subject to the license agreement from December 30, 1941 that provides LSCC (a legal successor to Kaiser) with easement access to maintain Permanente Creek.
 4. County Comment: Please provide an archaeological report for the project area. The proposed project area has the possibility of containing unrecorded archaeological sites, and previous archaeological surveys of the property do not appear to have fully covered the project area.
LSCC Response: The Cultural Resources Inventory and Evaluation Report, previously submitted to the U.S. Army Corps of Engineers, which contains the information requested, is included with the application submittal.

LAND DEVELOPMENT ENGINEERING

5. County Comment: Please provide a table of the estimated earthwork quantities per C12-424(g). Quantities should be separated into the different bodies of work for the project.
LSCC Response: Please see the response to Comment #2 above.
6. County Comment: Please provide a table of the estimated impervious areas that are created as a part of the development. The net change in impervious areas shall be clearly stated on the plans. (These are required to determine whether a drainage permit or whether Clean Water requirements are triggered creating further grading requirements.)
LSCC Response: A row has been added to the earthwork quantity table included on the cover sheet stating: "Impervious surface area created as part of project implementation = 0 sq.ft."
7. County Comment: Please clearly show the limits of the disturbed area as a result of the proposed development.
LSCC Response: The limits of disturbance are shown on Sheets C3-C5 of the application submittal. An additional polygon outlining the limits of disturbance associated with the proposed staging and stockpile area located to the northwest of the area to be graded has been added to the "Site Overview and Erosion Control Plan" shown on Sheet C3. The limits of disturbance have been expanded to include the outlet of the temporary diversion pipe. The square footage of the two staging and stockpile areas shown on the Site Overview and Erosion Control Plan have been added to the drawings.

8. County Comment: Provide a preliminary Hydrogeomorphologist Report with recommendations on the creek restoration. The proposed restoration shall comply with the recommendations of the geomorphologist.
LSCC Response: A letter prepared by the project hydrogeomorphologist is included with the application submittal.
9. County Comment: Clearly identify and show the locations of the geologic hazard zones on the plans.
LSCC Response: Sheet C10 has been added to the drawing set in the application submittal to depict the geologic hazard zones at and adjacent to the work area.
10. County Comment: Please include all applicable easements affecting the parcel with benefactors and recording information on the site plan as well as the boundaries of all of the parcels included with the development. Please supply a copy of the preliminary title report, prepared within the current ownership of the property, with a statement from the owner that no subsequent encumbrances have been recorded since the preparation of the title report.
LSCC Response: Please see Sheet C4 for parcel boundaries with APNs shown. The following note has been added to the sheet: "Parcel Note for APN 342-64-003 – Lehigh Southwest Cement Company maintains access/authorization for creek maintenance/restoration pursuant to a 12/30/41 license agreement with landowner Southern Pacific Railroad, recorded for this parcel on May 6, 1942."
11. County Comment: A significant portion of the work appears to be within the Southern Pacific Transportation Parcel. Please provide evidence of legal access for the proposed work or provide a notarized letter of authorization for the work within the neighboring property.
LSCC Response: Please see the response to comment #10.
12. County Comment: Show location of the existing flood plain and floodway on the plan with the zone labeled, base flood elevation, and the grading plans clearly tied to the datum for the floodplain which is clearly identified. The proposed floodplain and floodway shall also be shown on the plans.
LSCC Response: Sheet C11 has been added to the drawing set in the application submittal to show the FEMA floodplain and floodway, along with the base flood elevations at and adjacent to the project area. A note has been included stating that the FEMA data is on the same datum as the topographic survey.
13. County Comment: Provide a Hydraulic and Hydrologic study included with a CLOMR submittal to modify the floodplain and floodway per the FEMA and County Ordinance requirements. The CLOMR documents shall be submitted to FEMA prior to Preliminary Approval.

LSCC Response: Per the parties' discussions, a Floodplain Development Hydraulics Report is included with the application submittal, which demonstrates no rise in water surface elevations under the proposed project as compared to the existing condition.

14. County Comment: Demonstrate that the proposed changes to the floodplain and floodway do not increase the impact of floodwaters to the existing infrastructure including but not limited to the existing railway and bridge structure.

LSCC Response: Please see LSCC's Response to Comment #13 above. Because the proposed Project will not cause a rise in water surface elevations or increase inundation extents beyond the pre-project conditions, the proposed Project will not increase the impact of floodwaters to existing infrastructure, including the railway and bridge structure. This circumstance is described further in the Floodplain Development Hydraulics Report.

15. County Comment: Clearly show the location of the existing railroad and any associated easements on the subject parcels.


LSCC Response: Per the parties' discussions, the railroad tracks that service operations have been removed from the drawings since they are located beyond the top of bank and well beyond the proposed work area. Please see the response to comment #10 for easement information associated with APN 342-64-003.

As before, the revised Grading Approval package does *not* include the following items:

- Identification of Potential Historic Resources (Part I and Part II forms) because the to-be-demolished structures are less than 50 years old.
- A Geologic Report because the Project does not create or replace impervious surfaces even though it is within existing fault and liquefaction zones (see Appendix C in the EIF Continuation).
- Fire Protection Information because the Project by its very nature demonstrates compliance with Section 4290 of the Public Resource Code.
- Wastewater Treatment Information because the Project does not involve an existing or proposed septic system.
- Drinking Water Clearance Application because the Project does not include a connection to an individual water system, shared water system, or a small State water system.
- Checklist for Well Construction Application because the Project does not involve installation of a new well.
- Clean Water Questionnaire/Post Construction Requirement Packet because the Project does not create or replace impervious surfaces.

Please do not hesitate to contact me if you have any questions or need further information at this time at sanjeet.sen@heidelbergmaterials.com or 408-996-4249.

Sincerely,



Sanjeet Sen

Senior Environmental Manager

Enclosures: Revised Pond 22 Grading Approval Application package, which includes the following items: (1) Planning Master Application, (2) General Plan Conformance and Contiguity/Annexation Statement, (3) 1939 Deed, 1941 License Agreement (easement) and current Title Report, (4) revised Design Drawings and Design Basis Technical Memorandum (8/26/24), (5) Environmental Information Form and Continuation, (6) Hazardous Waste and Substance Sites List Questionnaire, (7) Well Information Questionnaire, (8) Grading Ordinance Design Standards, (9) Grading Justification Form and Continuation, (10) Cultural Resources Inventory and Evaluation Report, (11) Floodplain Development Hydraulics Report, and (12) Hydrogeomorphologist Report.

CC (via email):

Nicole Granquist, Downey Brand LLP