



**CITY MANAGER'S OFFICE**

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

December 30, 2020

Robert Salisbury  
County of Santa Clara  
70 West Hedding Street  
East Wing, Seventh Floor  
San Jose, CA 95110  
[Robert.Salisbury@pln.sccgov.org](mailto:Robert.Salisbury@pln.sccgov.org)

Re: Stevens Creek Quarry

Dear Mr. Salisbury,

The City of Cupertino provides additional comments on the most recent, revised version of the application for a use permit and major reclamation plan amendment (“Revised Application”) submitted by Stevens Creek Quarry (“SCQ”) on December 11, 2020. The fundamental concerns that the City identified in comments dated July 2, 2019 on SCQ’s pre-application and October 8, 2020 on SCQ’s original application remain, and are incorporated here. SCQ seeks to expand operations beyond historical practice or entitlement by importing aggregate from the neighboring property owned by Lehigh Southwest Cement Company (“Lehigh”) for processing and sale, SCQ provides no truck plan or other meaningful limit on local impacts from truck traffic during quarrying and processing operations, and both SCQ and Lehigh propose to import millions of tons of material to backfill their pits as part of reclamation, again without addressing traffic, infrastructure, emissions, and other impacts of hauling massive quantities of material through City streets.

The City looks forward to continuing its work with the County to resolve the flaws in both quarries’ proposed plans, including those summarized below.

**I. Import of aggregate is inconsistent with the County's Hillside zoning designation.**

SCQ's quarry is located within the County area zoned as Hillside District. The entire quarry property also falls within the Santa Clara Valley Viewshed design review combining district and the southeastern portion of the property falls within the additional overlay of the Scenic Roads combining district. The County's Zoning Ordinance does not expressly address whether the import of aggregate is permissible within the Hillside Zone. SCQ's Revised Application requests that the County determine that the import of aggregate material from Lehigh's quarry to SCQ is a permissible use under the Santa Clara County Zoning Ordinance. The County should deny this request.

A direct reading of the County's Zoning Ordinance reveals zones where the import and processing of aggregate is clearly allowed. The Hillside zoning category is not one of these zones. Rather, the import, processing, and sale of aggregate from Lehigh falls under the non-residential land use classification of Manufacturing/ Industry – Intensive as defined in the County Zoning Ordinance. Zoning Ordinance § 2.10.040 (Non-residential Use Classifications). The Manufacturing/Industry – Intensive category includes any industrial use that generates noise, odor, vibration, illumination, or particulates that may be offensive or obnoxious to adjacent land uses. *Id.* Because the SCQ property is zoned Hillside District, uses defined as Manufacturing/Industry – Intensive are not allowed on it.

Furthermore, the County should reject SCQ's request for a use interpretation because the import of aggregate would not be compatible with the intent of the Hillside District, the Santa Clara Valley Viewshed or Scenic Roads combining districts, or the County General Plan. The purpose of the Hillside District is to preserve mountainous lands unplanned or unsuited for urban development primarily in open space and to promote those uses which support and enhance a rural character, which protect and promote wise use of natural resources, and which avoid the risks imposed by natural hazards found in these areas. Zoning Ordinance § 2.20.010. Although mineral and resource extraction is a permitted use in the Hillside zone, these uses do not include—and should not be interpreted to encompass—hauling offsite materials for processing. The Hillside zone generally, and especially the Santa Clara Valley Viewshed or Scenic Roads overlays, protects the environment, watershed, ridgelines and viewshed, and surrounding low density community. Regardless of whether SCQ's activities are subject to the specific design review provided by the overlays, their requirements only reinforce that the larger Hillside zone, and this property in particular, are subject to limits that minimize visual impacts rather than expanding industrial uses.

It is important to note that SCQ has been operating for more than 80 years while Lehigh has been operating for approximately 100 years. Almost certainly, the County approved these highly impactful mining operations as appropriate for their remote setting. Now that the area surrounding the quarries has urbanized, any proposal that would extend their operations would perpetuate serious land use conflicts.

Aggregate import and processing would also not be consistent with the County General Plan's land use designation. The County General Plan classifies the SCQ site as "Hillside." The General Plan recognizes that lands designated Hillside may contain mineral

deposits and the land use designation identifies mineral extraction as an allowable use. *See* General Plan Land Use Chapter Rural Unincorporated Area Issues and Policies) at Q-3. Mineral extraction and the import of aggregate are distinct uses with very different impacts. Mineral extraction has and will continue to occur at both quarries until their resources are depleted. Yet importing aggregate as a new source of revenue will result in environmental impacts and threaten residents' quality of life, as described in Cupertino's October 8, 2020. For each of these reasons, the County should reject SCQ's request for a use interpretation to allow import of aggregate from Lehigh Quarry.

## **II. The Application would result in significant impacts from quarry-related truck traffic.**

As the City has noted repeatedly, SCQ's operations already impact the City's traffic and infrastructure, causing congestion, excessive queuing, emissions, deposit of debris, and traffic violations along its Stevens Canyon Road/Foothill Boulevard truck route. The Revised Application exacerbates these concerns by expanding operations to include processing and sale of approximately one million tons of imported aggregate each year, rather than instead of winding down as soon as possible once its resources are depleted, as intended by SMARA. Pub. Res. Code § 2772(c)(6). And now it proposes to deepen the already unstable quarry pit, and then to import 3.7 to 12.5 million cubic yards of material from offsite to backfill the pit during reclamation, up from the 2 million cubic yards previously proposed. Contrary to SCQ's response to comments (comments 5(b), 29), and despite this huge increase in trucking and the obvious impact that the trucks would have on City and County residents and infrastructure, the Revised Application still does not quantify either current or projected future truck trips. Instead, Section 6.4.3 of the Project Description simply states that the existing upper limit of 1,300 on-road trips per day will be sufficient to accommodate its proposed plans. But that upper limit is irrelevant to both the County's consideration of appropriate conditions associated with a new discretionary use permit and its analysis of the impacts of SCQ's proposal. *See Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 322 (maximum permitted level of operation not proper baseline for environmental review).<sup>1</sup> SCQ is also entirely silent about the recent reclamation plan amendment submitted by Lehigh, which proposes to import similarly vast quantities of additional fill to reclaim the neighboring property.

Any use permit and reclamation plan amendment must impose meaningful limits on quarry-related traffic, and must require mitigation of the significant offsite impacts caused by trucks travelling to and from SCQ as well as the cumulative impacts of the proposed backfilling of quarry pits on the neighboring SCQ and Lehigh properties.

---

<sup>1</sup> SCQ's embrace of the Mediated Conditions that provide the upper limit of 1,300 truck trips per day is inconsistent. The same conditions also expressly require retention of onsite overburden for use in the reclamation and revegetation process and prohibit additional ingress and egress points from the property, including the haul road that SCQ proposes to Lehigh's property.

### **III. The Revised Application does not adequately address water quality.**

Previously, the City commented on SCQ's Application that SCQ's approach to water quality protection was cavalier as the Application sought to expand operations without undertaking a sufficient analysis of protections for Rattlesnake Creek and Swiss Creek, which merge within the facility and discharge to Stevens Creek Reservoir. The County also requested that SCQ update the technical stormwater memorandum. Rather than provide this information and an updated memorandum, the Revised Application simply asserts that an analysis of drainage issues upon site reclamation will be forthcoming. The Revised Application refers to section F of the Revised Application cover letter but this section simply states that SCQ is having consultants prepare a stormwater analysis and it will comply with SMARA. SCQ's processing of stormwater has the potential to impact water quality. As such, the County should require SCQ to explain how its stormwater plan will protect water quality and otherwise comply with SMARA.

Regarding stream restoration, SCQ takes the position that it is unclear whether stream restoration is required for ponds located on its property. The Revised Application cover letter explains that if, during discussions with RWQCB, it is ultimately determined that stream restoration is required or if there are long-term stability issues, SCQ will amend the existing reclamation plan. It is imperative that SCQ conduct technologically-sound hydrologic and geomorphologic analyses now so that the public and decision-makers have the information necessary to determine that the Rattlesnake Creek's stability will be protected and that water quality is protected. These analyses should have been included in the Revised Application.

The Revised Application includes several reclamation elements that have the potential to impact water quality. These include:

- Information has been removed on the depth of mining as it relates to the depth to groundwater. Previously depth to groundwater was below 300 msl. Because SCQ now proposes to lower the pit by approximately 300 feet, the potential exists for groundwater interaction. There is no explanation as to why the Revised Application has excluded information on the depth of mining and groundwater depths or its implications on groundwater interaction.
- The Revised Application includes seven surface water drainage areas, up from two. The Revised Application does not describe the reasons for the increase in drainage areas or the implications of the plan revision.
- The Revised Application calls for moving the recycling plant to Parcel B to a location near the aggregate processing facilities. The County should require that SCQ evaluate the potential for water quality impacts from this relocation.

#### **IV. Conclusion**

The City will continue to work with the County to address the scope and impacts of any use permit and reclamation plan amendment to bring them into conformity with City and County policies and to address significant impacts that they will have on the City and the surrounding community. But as the City has summarized above and in prior comments, the City finds SCQ's use permit and reclamation plan amendment applications flawed as proposed.

Sincerely,

*Roger Lee*

Roger Lee  
Director of Public Works






# Stevens Creek Quarry Letter dated 12.30.20

Final Audit Report

2020-12-30

Created:	2020-12-30
By:	Julia Kinst (juliak@cupertino.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAClxnWi-DaePYj_4Tvf11y4q1GFAUoek6

## "Stevens Creek Quarry Letter dated 12.30.20" History

-  Document created by Julia Kinst (juliak@cupertino.org)  
2020-12-30 - 7:33:07 PM GMT- IP address: 64.178.242.15
-  Document emailed to Roger Lee (rogerl@cupertino.org) for signature  
2020-12-30 - 7:33:34 PM GMT
-  Email viewed by Roger Lee (rogerl@cupertino.org)  
2020-12-30 - 7:34:07 PM GMT- IP address: 104.47.73.126
-  Document e-signed by Roger Lee (rogerl@cupertino.org)  
Signature Date: 2020-12-30 - 7:38:39 PM GMT - Time Source: server- IP address: 24.4.161.237
-  Agreement completed.  
2020-12-30 - 7:38:39 PM GMT



POWERED BY  
Adobe Sign