

RESOLUTION NUMBER R-293272

ADOPTED ON JUNE 6, 2000

WHEREAS, Hanson Aggregates Pacific Southwest, Inc., Owner/Permittee, filed an application with the Planning and Development Review Department for a Condition Use Permit to operate a concrete ready mix batch plant, a custom topsoil treatment operation, and a concrete recycling center on a 13.6 acre site located at 5745 Mission Center Road, and legally described as a portion of Parcel 2, Map No. 12442, in the Mission Valley Community Plan area, in the MV-V zone; and

WHEREAS, on March 23, 2000, the Planning Commission of The City of San Diego considered Conditional Use Permit [CUP] Permit No. 98-0337, and pursuant to Resolution No. 2941-PC voted to recommend denial of the permit; and

WHEREAS, Lynn Heidel, attorney for the Owner/Permittee, appealed the Planning Commission decision to the City Council; and

WHEREAS, the matter was set for public hearing on June 6, 2000, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to CUP Permit No. 98-0337:

A. THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE NEIGHBORHOOD, GENERAL PLAN OR THE COMMUNITY PLAN, AND IF CONDUCTED IN CONFORMITY WITH THE CONDITIONS PROVIDED BY THE PERMIT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA.

1. Neighborhood, General Plan, Community Plan. The site is zoned Mission Valley-Multiple Use (MV-M) in the Mission Valley Planned District Ordinance (PDO). The PDO does not specifically address the use of mining in relation to the underlying zone. Rather, the PDO Administrative Regulations, Section 103.2103.3, state that "where not otherwise specified in this division, the provisions of Chapter X, Divisions 1 through 12 shall apply." Chapter X, Division 1, Article 5, Section 101.0510, sets forth the permitting and decision process for the proposed use. Under Section 101.0510, the extracting, processing, storing and selling of sand, gravel, rock cement, and soil is permitted with a Conditional Use Permit. The Mission Valley Community Plan identifies sand and gravel operations on the subject site. Therefore the proposed project is consistent with the Community Plan.

2. Health, Safety and General Welfare of Residents. A Noise Study was prepared by the consulting firm of Dames & Moore and concluded that the property line noise level to the north and northwest would be 56 dB(A), when the batch plant is in operation the maximum dB(A) cannot exceed 57.7 dB(A). Therefore, pursuant to the Municipal Code no significant noise impacts on the residential development to the north and northwest would result with the approval of the project.

A Traffic Study was completed by Urban Systems Associates, Inc., and identified the batch plant as generating 646 average daily trips (ADTs). This would result in 191 average daily trips in both the a.m. and p.m. peak hours. The conclusion of the Traffic Study was that the proposed project would not result in any change to the levels of service on the circulation system serving the site.

Conditions have been incorporated into the project to address dust control. The measures include a water tank truck wetting down the project site, including the roads (which is required by the APCD), three times a day. All truck routes inside the site would be paved with concrete.

In November 1999 the Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services completed an "Exposure Investigation" on whether residents who live adjacent to the mining operations were being exposed to crystalline silica in fugitive airborne particulate at levels that would cause a public health concern. The particulates can cause pulmonary inflammation and the development of pulmonary fibrosis (i.e., silicosis).

ATSDR also reviewed the San Diego County Air Pollution Control District's (ASPCD) sampling report dated July 16, 1999, for asbestos, particulate matter, several toxic metals and hexavalent chromium in the same area. The conclusion of both the Federal and County air quality studies was that the level of particulate matter was no greater in the vicinity of the project site than in the San Diego air basin as a whole.

Neighbors to the north of the site, in particular residents of the Hye Park Condominiums, have not supported the project. Representatives from Hanson Aggregates have meet with a group from the Hye Park Condos and the Serra Mesa Community Council to discuss the project. The outcome is the inclusion of 16 conditions from the group. The conditions limit the hours of operations to address early morning and night-time noise. Night-time noise has been the result of maintenance activities on trucks and heavy machinery. Right turns out of the facility will not be permitted onto Mission Center Road heading north. This is to ensure that truck traffic will not go onto Murray Ridge Road. Inverted cattle guards will be installed at the exit for all trucks to cross to clear their tires of rocks and debris. The

applicant has also agreed to sweep the streets three times a week and to monitor them for spillage and to immediately clean up.

The applicant has agreed to include all 16 conditions into the project permit. Even with the inclusion of the 16 conditions the "group" does not support the project.

The project has been designed to be in conformance with all applicable City codes and policies and if conducted in conformity with the conditions that have been applied to it will not be detrimental to the health, safety and general welfare of persons residing or working in the area.


**B. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS OF THE MUNICIPAL CODE IN AFFECT FOR THIS SITE.**

Development of the subject site will comply with the applicable regulations of the San Diego Municipal Code in effect for the site, including site design, traffic, noise and landscaping.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is overruled, and CUP Permit No. 98-0337 is granted to Hanson Aggregates Pacific Southwest, Inc., Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By   
Mary Jo Lanzafame  
Deputy City Attorney

MJL:lc  
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02/02/01 COR.COPY  
Or.Dept:Clerk  
R-2001-609  
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Reviewed by Patricia Grabski

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
PLANNING AND DEVELOPMENT REVIEW  
PERMIT INTAKE, MAIL STATION 501

**AND WHEN RECORDED MAIL TO**  
CITY CLERK  
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT (CUP) No. 98-0337  
MURRAY CANYON  
AMENDMENT TO CUP No. 82-0005  
CITY COUNCIL

This Permit is granted by the Council of the City of San Diego to Hanson Aggregates Pacific Southwest, Inc., Owner/Permittee, pursuant to San Diego Municipal Code section 101.050. The site is located at 5745 Mission Center Road in the MV-V Zone of the Mission Valley Planned District Ordinance in the Mission Valley Community Plan area. The project site is legally described as a portion of Parcel 2, Map No. 12442.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee, Hanson Aggregates Pacific Southwest, Inc., to amendment CUP No. 82-0005 to remove 13.6-acres from the existing 33-acre mining operation. The remaining 19.4-acres will continue to be used for mining operations subject to CUP No. 82-0005 which expires on December 31, 2000.

The 13.6-acre site will be used as a ready mix concrete batch plant, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A," dated June 6, 2000, on file in the Office of Planning and Development Review. The facility shall include:

- a. A ready mix concrete batch plant;
  - b. Landscaping (planting, irrigation and landscape related improvements);
  - c. Off-street parking facilities;
  - d. Two temporary trailers and a driver's trailer;
  - e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site;
  - f. The permit will expire five (5) years from the date of approval.
1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals.

Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to Planning and Development Review; and
- b. The Permit is recorded in the office of the San Diego County Recorder.

3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. § 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated June 6, 2000, on file in the Office of Planning and Development Review. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the new permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

10. This Conditional Use Permit and corresponding use of this site will expire on June 6, 2005. Upon expiration of this permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored pursuant to the associated Reclamation Plan.

#### **ENGINEERING REQUIREMENTS:**

11. The drainage system proposed for this project, as shown on the approved plans, is subject to approval by the City Engineer.

12. The 20-foot wide Access and Slope Maintenance Easement shown on the As-Graded Reclamation Plan must be executed and recorded. A certified copy of the recorded document must be provided to the City.

13. An Irrevocable Offer of Dedication (IOD) is required to accommodate the half-width cross-section of 39 feet of pavement within 49 feet of right-of-way along property frontage on Mission Center Road.

14. The property owner shall enter into an agreement with the City waving the right to oppose special assessment proceedings initiated for installation of pedestrian ramps at the intersection of the project entrance with Mission Center Road.

15. Standard curb and gutter are required to be installed along the private driveway.

16. The applicant shall comply with SMARA (State Mining and Reclamation Act) with respect to provisions for a reclamation plan and financial assurance.

17. All grading shall conform to requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

18. Should area of grading to support the proposed development of this site exceed 5 acres, then the development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

**PLANNING/DESIGN REQUIREMENTS:**

19. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

20. The Owner/Permittee agrees that there will be no right turns of commercial trucks exiting the facility and traveling north on Mission Center Road, unless they are delivering material or concrete to the Serra Mesa community. The Owner/Permittee agrees to enforce this condition with their employees and independent drivers. The Owner/Permittee will post signs at their exit that clearly state that "right turns are not allowed." The Owner/Permittee agrees that no commercial trucks will enter the facility from Mission Center Road from the north.

21. The Owner/Permittee agrees to post signs and advise customers of the California Vehicle Code section 23114, which requires that a load be 6 inches below the vertical sides of the truck; otherwise the load must be sealed to prevent material from escaping. Prior to leaving the project site the Owner/Permittee will assure that all loads shall be in compliance with California Vehicle Code section 23114.

22. The Owner/Permittee agrees that City streets will be swept three (3) times a week and be cleared of any spillage of dirt, gravel, debris, etc. The intersection at Mission Center Road and Mission Valley Road, the on and off ramps from Mission Center Road to Friars Road, and the intersection south of the Friars Road overpass will be monitored twice every day to identify any spillages. Once the Owner/Permittee is notified of spillage, they will respond and clean-up within 24 hours of notification. The Owner/Permittee further agrees to post at their site entrance, the emergency number in the event of a spillage or other emergency.

23. The Owner/Permittee will install an inverted cattle guard at the exit for all trucks to cross and clear their tires of rocks and debris prior to leaving the project site.

24. The Owner/Permittee agrees that all truck routes within the site will be paved with concrete.

25. The Owner/Permittee agrees that for dust control on-site, the water truck will wet down all paved roads and the entire project site a minimum of three (3) times daily.

26. Hours of operation for the concrete batch plant are from 6:00 a.m. to 6:00 p.m., Monday through Saturday.

27. The hours of operation for maintenance of the batch plant, vehicles and machinery will be routinely scheduled between 6:00 a.m. to 10:00 p.m., Monday through Friday, and on Saturday 7:30 a.m. to 6:00 p.m.

28. Reclamation on the northern slope below Harton Road and Harton Court will be completed in compliance with the approved Reclamation Plan.

29. The fencing along Mission Center Road on the western portion of the property will be maintained through the life of the permit.

30. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. Approved project Sign Plan (Exhibit "A," dated June 6, 2000, on file in the Office of Planning and Development Review); or
- b. Citywide sign regulations.

31. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

32. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

#### LANDSCAPE REQUIREMENTS:

33. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 6, 2000, on file in the Office of Planning and Development Review. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

34. It shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

35. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modification such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee/Owner shall be responsible for maintaining all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

36. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Owner/Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.



37. Prior to issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 6, 2000, on file in the Office of Planning and Development Review. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

APPROVED by the Council of the City of San Diego on June 6, 2000, by Resolution No. R-293272.

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AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**The undersigned Permittee**, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

**Hanson Aggregates Pacific Southwest, Inc.**  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

2/2/01

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