

DATE ISSUED: May 23, 2001

REPORT NO. 01-099

ATTENTION: Honorable Mayor and City Council
Docket of May 29, 2001

SUBJECT: Appeal of Five Year Review of Conditional Permit (CUP) No. 89-0585
for Mining and Extractive Industries, Carroll Canyon Plant CUP No. 89-
0585, Council District 5, Process Four

REFERENCE: Planning Commission Report No. P-01-049, CUP No. 89-0585, and
Planning Commission Resolution 0752-PC.

OWNER/
APPLICANT: Hanson Aggregates Incorporated, Pacific Southwest Region

SUMMARY

Issue - Should the City Council deny the appeal and uphold the decision of the Planning Commission to add a new condition in conjunction with the five year review of Conditional Use Permit (CUP) No. 89-0585 that provides for City cost recovery for the State mandated annual review of the mining operation, and the Commission's decision to make no other amendments to the CUP?

Manager's Recommendation - Deny the appeal and uphold the Planning Commission's decision.

Planning Commission Recommendation - On March 1, 2001, the Planning Commission approved (by a vote of 4-0) the 5 year review of CUP No. 89-0585 and added a condition providing for City cost recovery to conduct annual reviews of the operation in accordance with the Surface Mining and Reclamation Act (SMARA). The Planning Commission indicated that the City review process for the 5 year review had afforded sufficient time and opportunity for community input and that Hanson Materials Company has been operating their facility consistent with the approved CUP.

Community Planning Group Recommendation - On January 16, 2001, the Mira Mesa Community Planning Committee voted (8-3-2) to recommend approval of the 5 year review.

Environmental Impact - An environmental analysis was prepared and accepted for CUP 89-0585, and no changes are proposed for the operation.

Fiscal Impact - With this action, the City will be able to recover costs for staff time that were previously charged to the General Fund as overhead.

Code Enforcement Impact - No change at this time. However, improved liaison with the

community through the administration of both the SMARA and the CUP conditions by the Development Services Department will support more timely complaint resolution.

Housing Affordability Impact - No impact.

BACKGROUND

The mining site has been in continuous operation since the 1950's by the Fenton Materials Company ("Fenton") and was sold to Hanson Materials Company ("Hanson") in 1998. The subject property is located between Miramar Road and Mira Mesa Boulevard, just east of the alignment of Camino Sante Fe (Attachment No. 1). The mining operation continued after it was purchased by Hanson Materials, although a large portion of the original property was split off for the purpose of subdivision and development of an industrial park in accordance with the Mira Mesa Community Plan and the approved Reclamation Plan.

In 1986, Conditional Use Permit (CUP) No. 86-0803 was issued to Fenton, subsequently modified in 1990 and reissued as CUP 89-0585. This permit, which is transferred to Hanson, is due to expire on March 1, 2015. Provisions were included within the CUP for mandatory 5-year reviews of the CUP to be performed by the City. The Carroll Canyon mining operations are currently conducted by Hanson.

In addition to the CUP, the mining operation is subject to the State Surface Mining and Reclamation Act (SMARA). SMARA requires that the property be inspected annually to confirm compliance with the approved Reclamation Plan. The inspections are to be paid for by the mining company, and performed by the lead agency, in this case the City of San Diego. The modifications proposed as a part of this action will provide for costs to be borne by the mining operator.

On March 1, 2001, the Planning Commission considered the 5-year review of the Carroll Canyon Plant (Attachment No. 3). Testimony was heard from 25 speakers in support of staff's recommendation and from three in opposition. Those in opposition felt that sufficient time had not been afforded for public review and input on the mining operation's compliance with the CUP and that the operation was not in compliance with conditions of the CUP. After hearing all testimony and reviewing evidence presented at the hearing, the Planning Commission determined that the Hanson's mining operation was in compliance with CUP No. 89-0585 and supported addition of the condition that allows the City to recover costs for annual review under SMARA.

An appeal of the Planning Commission's decision was filed on March 9, 2001, citing procedural issues with the hearing.

DISCUSSION

Reason of Appeal

Following a presentation by Hanson Aggregates, the Planning Commission Chairman requested

the three speakers in opposition to the City staff recommendations make their statements first due to the large number of speakers (25) in support. Speakers in opposition argued that insufficient review and discussion had occurred to allow Hanson to continue operations in the same manner under the existing CUP, and that additional time should be devoted to continued analysis of the operation. In addition, they suggested that the current 5-year review (which is overdue) be delayed further to continue discussing the issues. Speakers in favor of the staff recommendation testified that Hanson's operation was a benefit to the community, and that the operation had been responsive to the concerns of neighboring homeowners.

The appeal is based on the speakers in opposition being heard out of order, so they were not offered a chance to respond to the information presented to the Commission by those in favor. Staff believes the Planning Commission hearing was conducted properly, and that sufficient opportunity for review and input on the 5 year review has been provided.

Five Year Review

The purpose of this action is to satisfy Condition No. 5 of CUP 89-0585: "In view of the developing nature of the surrounding area, this Conditional Use Permit shall be subject to review by the Planning Commission at approximately five year intervals dating from September 13, 1990. This review shall be for the purpose of determining if any additional conditions need to be imposed or existing conditions amended."

The Carroll Canyon operation existed before adjacent residential development. Homes have subsequently been built close to the property boundaries. As is typical for mining operations, the activity of the operation has expanded from the original location closer to the property boundaries in accordance with the originally approved phasing plan as the sand and gravel are mined. This has resulted in complaints from neighbors regarding increased noise.

Members of the Mira Mesa community expressed concern that the current operations violate the CUP conditions, or that the activities of the mining operations are so onerous as to warrant an amendment of the CUP conditions. Several incidents have been described including mining operations occurring well outside of working hours without authorization, excess dust on the exterior and interior of homes, and blast vibration and damage to houses. In response, Hanson personnel also actively participated with the community planning group and a special subcommittee to provide a forum for complaints about mining activities. As a result of the concerns expressed by the residents, Hanson has commissioned noise and dust studies by outside consultants designed to address the local residents' concerns (Planning Commission Report P-01-049, Attachment 5). The consultants have appeared at meetings of the subcommittee at Hanson's request to answer local resident's questions.

The results of the studies indicate that the area around the mining operation has levels of dust, toxic constituents in the dust, or noise that are not significantly different than the ambient levels generally found in the Mira Mesa area. According to Hanson's research, many of the noise complaints have occurred when there was no activity on the site or the origin of the noise could be traced to other construction activity unrelated to the mining site. Where activity on-site occurred by Hanson's activities or that of their tenants, Hanson has been responsive by enforcing

work hours for equipment startup and shutdown, replacing back-up audio alarms with visual alarms for night work, and education of their personnel and guard services to respond to noise which occurs outside of working hours.

The Hanson operation has operated outside of normal working hours, but only when requested as an “emergency” measure for federal, state, or local contracts. One explanation of adjacent residents concerns regarding increased noise north of the mining operation was the unauthorized removal of a long, high ridge, that screened the operation. This ridge was replaced by Hanson in December, 1999 as a berm constructed of compacted fill for the purpose of decreasing noise levels. This berm is permanent, and has reduced the noise level to previous conditions.

Measurements taken during blasting events indicate vibrations at or below 50 percent of the level found to cause damage to structures. No evidence of blast or vibration damage has been documented in any of the homes.

The mining operation is also subject to SMARA. SMARA requires that the property be inspected annually to confirm compliance with the approved reclamation plan. These inspections are to be paid for by the mining company, and performed by the lead agency, the City of San Diego. Currently, no mechanism exists to reimburse the City for the costs associated with required inspections, requests by the mining operation for emergency extension of working hours, review of mitigation monitoring program, or preparation of 5-year reviews of the CUP. The City is requesting that the CUP be amended to include a provision to establish an open cost-reimbursement account to recover the cost of staff time for these activities.

Staff has determined the operation is in compliance with the existing CUP, that sufficient time had been afforded for public input, and that the Planning Commission hearing was properly conducted. Staff, therefore, recommends the City Council deny the appeal, and uphold the Planning Commission’s approval of the 5 year review and addition of the permit condition to recover City costs for review of the mining operation in compliance with SMARA.

ALTERNATIVES

1. Deny the appeal and determine the present conditions of CUP 89-0585 to be adequate.
2. Deny the appeal and direct amendments to CUP 89-0585 for additional conditions to those recommended and approved by the Planning Commission.

Respectfully submitted,

Tina P. Christiansen, A.I.A. Approved:
Development Services Director

George I. Loveland
Senior Deputy City Manager

CHRISTIANSEN/RH

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

- Attachments:
1. Project Location Map
 2. Site Photo
 3. Planning Commission Minutes
 4. Appeal
 5. Planning Commission Report