Resolution Number _____

Planning Commission
County of Mendocino
Ukiah, California
October 15, 2015

UR_2013-0001 SEAN & AURORA STUDEBAKER AND VALERIE JEAN NORDEMAN

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING A USE PERMIT AND RECLAMATION PLAN RENEWAL FOR THE LAYTONVILLE ROCK QUARRY (CA MINE ID# 91-23-0029).

WHEREAS, Use Permit #U 10-77 was approved by the Planning Commission on March 17, 1977, permitting an existing rock quarry on the subject property for a period of five years; and

WHEREAS, Use Permit Renewal #UR 10-77(82) was approved by the Planning Commission on April 1, 1982, allowing for a 10 year extension of the quarry use. The permit expired on April 21, 1992; and

WHEREAS, Use Permit and Reclamation Plan #U 15-92 was approved by the Planning Commission on January 7, 1993, allowing for up to 325,000 cubic yards (cy) of rock to be removed from the subject site over a 20 year period, with an annual average of 15,000 to 20,000 cy per year. The permit expired on January 17, 2013, although County policy allows for continued operation while application for the current renewal remains in process; and

WHEREAS, the applicant, SEAN & AURORA STUDEBAKER AND LAYTONVILLE ROCK, filed an application for Use Permit and Reclamation Plan Renewal for the Laytonville Rock Quarry (CA MINE ID# 91-23-0029) with the Mendocino County Department of Planning and Building Services to expand the existing hillside quarry mining operation for 30 years located approximately one mile northeast of Laytonville, lying on the north side of Laytonville-Dos Rios Rd (CR 322), 0.75± mile from its intersection with Highway 101, at 1136 Laytonville-Dos Rios Road, Laytonville; APNs 035-460-02 & -06 (the "Project"); and

WHEREAS, a Mitigated Negative Declaration was prepared for the Project and noticed and made available August 13, 2015 for agency and public review for the proposed project in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on October 15, 2015 at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets for the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings based on evidence in the record as discussed under pertinent sections of the staff report dated October 15, 2015;

1. Environmental Findings: The environmental impacts identified for the project can be adequately mitigated through the mitigation measures or features of the project design so that no significant adverse environmental impacts will result from this project; therefore a Mitigated Negative Declaration is adopted.

2. General Plan Consistency Findings: The proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

3. Use Permit Findings: Use Permit #UR_2013-0001 is subject to the conditions of approval which ensure:

   a. That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;
   b. That adequate utility, access roads, drainage and other necessary facilities have been or are being provided.
   c. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood or such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
   d. That such use preserves the integrity of the zoning district.

BE IT FURTHER RESOLVED that the Planning Commission hereby adopts the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program along with the Conditions of Approval. The Planning Commission certifies that the environmental document has been completed, reviewed, and considered, together with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission.

BE IT FURTHER RESOLVED that the Planning Commission hereby grants the requested entitlement, subject to the Mitigated Negative Declaration and Mitigation Monitoring Program and Conditions of Approval in Exhibit “A”, attached hereto.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

_____
MOLLY WARNER, Chair
Mendocino County Planning Commission

ATTEST: ADRIENNE M. THOMPSON
Secretary to the Planning Commission

By_____

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made

APPROVED AS TO FORM
DOUGLAS L. LOSAK, Interim County Counsel

BY: STEVEN D. DUNNICLIFF
Director

_____
Deputy

EXHIBIT A

CONDITIONS OF APPROVAL
USE PERMIT - UR_2013-0001
OCTOBER 15, 2015

Use Permit and Reclamation Plan Renewal to expand an existing hillside quarry mining operation for 30 years. Extraction would consist of up to 325,000 total cubic yards (cy) of material (average 11,000 cy/yr) with up to 50,000 cy in any one year, located at 1136 Laytonville Dos Rios Road, Laytonville; APN's 035-460-02 & -06.

APPROVED PROJECT DESCRIPTION: Use Permit and Reclamation Plan Renewal to expand an existing hillside quarry mining operation for 30 years. Extraction would consist of up to 325,000 total cubic yards (cy) of material (avg 11,000 cy/yr) with up to 50,000 cy in any one year.

CONDITIONS OF APPROVAL: Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

Aesthetics

**1. The applicant shall install prescribed soil and planting and provide monitoring for all aspects of the reclamation in accordance with the approved Mining and Reclamation Plan for the project.

Air Quality

**2. The operator shall maintain a current air quality permit with the Mendocino County Air Quality Management District (MCAQMD) and continue compliance with the requirements therein, including those relating to dust control measures. Written verification from MCAQMD shall be submitted to Planning and Building Services to ensure all current requirements have been met to the satisfaction of that agency.

**3. As mining progresses, the operator shall avoid mixing NOA material with the commercially available stockpiles. The following measures address segregating the asbestiform-laden material from the rock to be quarried and stockpiles as aggregate:

a. Proximal to and within the mapped NOA zone, the material may periodically be over-excavated to depths attainable by an excavator. The excavated material shall be stockpiled onsite and covered to protect it from wind and rain. During over-excavation, dust-suppression methods shall be employed, including periodic wetting. Over-excavation could occur on an as needed basis so as to allow for the removal of aggregate from the working faces and benches while minimizing the potential contamination with the NOA. A qualified geologist shall be retained to observe the over-excavation and map the newly exposed limits of the NOA.

b. Periodic collection of composited samples from the aggregate stockpiles in compliance with the MCAQMD requirements to verify the concentration of NOA in the commercially available materials is less than 0.25 percent. Stockpile sampling shall be conducted by the operator:

   i. Initial sampling for existing stockpiles every 10,000 CY until stockpiles are sold.

   ii. Every 20,000 CY after existing stockpiles sold.

   Sampling shall be performed in accordance with an approved Asbestos Dust Mitigation Plan.

c. Excavation of the proposed quarry face slopes may expose differing site conditions which may increase the potential for NOA to be exposed. Periodic sampling of the exposed slopes is required to verify that the NOA recommendations remain valid. If the review of newly exposed site conditions record new areas of NOA, additional mapping/measurement of newly exposed NOA and updated mitigation recommendation may be required. A periodic review should occur for every 40,000 cubic yards of excavation.

**4. To mitigate the impacts of quarry operations encountering NOA, the operator shall notify the MCAQMD a minimum of 14 days prior to quarry operations in the vicinity of NOA. Consistent with MCAQMD NOA regulations, the applicant is required to submit a dust control plan that includes, at a minimum, the following:

a. Visible dust emissions from equipment and operations shall not cross the property line.

b. Crushers shall not discharge emissions for a 3-minute period in any hour that are greater than 15 percent opacity.

c. Grinding mills, screens and transfer points on conveyors shall not discharge emissions for a 3-minute period in any one hour that are equal or greater than 10 percent opacity.

d. A 15 mph maximum speed limit at the work site.

e. Storage piles and disturbed areas must be stabilized by adequate wetting, treatment with a chemical dust suppressant, or covered with material containing less than 0.25 percent asbestos.

<u>Biological Resources</u>:

**5. The Project will result in the loss of up to 65 native oak trees within 40 feet of the existing quarry.

a. Reclamation, including replacement planting of oak woodlands to ensure a survival ratio of 3:1, which exceeds the Mendocino County General Plan recommendation of 2:1, shall be performed upon final reclamation in accordance with the 2013 Mining and Reclamation Plan Section 4.8 (Revegetation), and Section 4.9 (Maintenance Plan) and Section 4.10 (Monitoring).

b. Contribute to the California Wildlife Conservation Board's Oak Woodland Conservation Fund or other mitigation fund established by the County. The contribution shall be computed as follows:

1. 1.0 x acres of impacted woodland x current land value x 0.05 (County Administration fee)

2. Acceptable methods of established current land value are;

i. Appraisal of woodland area impacted

ii. Sale Values for like property for which the woodlands are being removed and which are located in the same general area.

6. The operator (or agent) shall prepare a plan, for review and concurrence by the California Department of Fish and Wildlife (CDFW), addressing water drainage into the watercourse southeast of the quarry.

7. In order to avoid impacts to nearby watercourses, stockpiling of soil and other materials shall occur in areas that drain toward the quarry floor.

8. The culvert below the lower catchment pond shall be replaced to the satisfaction of CDFW.

9. Prior to tree removal, the operator shall obtain all appropriate clearances from the California Department of Forestry and Fire Protection (CalFire), including but not limited to a "Less than 3-Acre Conversion" permit, if required. Written verification shall be submitted from CalFire to Planning and Building Services that any and all requirements have been met to the satisfaction of that agency.

Cultural Resources:

**10. If, during the course of the project, cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts and features) are discovered, all work shall be halted immediately within 50 feet of the discovery, the County Department of Planning and Building Services shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology shall be retained to determine the significance of the discovery.

**11. If, during the course of the project, any paleontological resources (fossils) are discovered, all work shall be halted immediately within 50 feet of the discovery, the County Department of Planning and Building Services shall be immediately notified, and a qualified paleontologist shall be retained to determine the significance of the discovery.

Hazards and Hazardous Materials:

**12. During "high," "very high," and "extreme" fire danger rating levels, the operator shall have the water truck on standby during equipment use at the quarry.

**13. Storing/handling hazardous materials in quantities exceeding 55 gallons, 200 cubic feet and 500 pounds requires a Hazardous Materials Business Plan through the County Division of Environmental Health.

Noise:

**14. Noise levels created by the operation as measured at the nearest residence other than that of the mine operator shall not exceed 55dBA Ldn.

**15. The hours of operation shall be limited to between 6:00 a.m. and 6:00 p.m. on weekdays and Saturdays. Additionally, due to the potential for temporary increases in noise levels associated with blasting and processing, these activities shall be limited to 7:00 a.m. to 6:00 p.m. during the days of operation noted above.

Standard Conditions:

16. All non-turbo charged equipment shall have approved spark arrestors installed and shall carry "ABC" type fire extinguisher(s).

17. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within one year or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit. This permit shall expire on November 1, 2045. The applicant has sole responsibility for renewing this permit before the expiration date listed above. The County will not provide a notice prior to the expiration date.

18. All recommendations made within the Laytonville Rock Quarry Renewal Mining and Reclamation Plan (dated August 2014, amended January 2015) prepared by Rau and Associates/Crawford

and Associates, Inc. shall be considered conditions of approval for the project. The final reclamation and re-vegetation of the site shall be done in conformance with the said plan.

19. The rock quarry extraction operation shall not exceed 325,000 cubic yards (cy) of rock, with an average limit of approximately 11,000 cy per year and a maximum annual limit of 50,000 cy per year.

20. Annually, prior to July 1st, the applicant shall supply to the Department of Planning and Building Services an accounting of the quantities and types of materials extracted and/or processed from each location that season. The accounting report shall indicate the dates on which the specified volumes were removed, the method used to calculate the volume figures and the signature of the person responsible for completing the report. Such report shall be submitted even if no material was removed that season.

21. The applicant shall submit the appropriate mining inspection and monitoring fee to the Department of Planning and Building Services within 30 days of approval, and on an annual basis until the mine is fully reclaimed. Currently, the fee stands at $1,125.00. Fee estimates are calculated yearly and may change over the course of the entitlement.

22. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $2,260.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to October 30, 2015. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.

23. Prior to any change of operators, the applicant shall notify the Department of Planning and Building Services 30 days prior to extraction. The applicant shall provide an accounting of all materials mined by each operator. Any change in operators shall not exempt the applicant/operators from providing required monitoring information.

24. The applicant shall grant access to the property during hours of operation to permit County representatives or any consultants hired by the County for inspection, enforcement, or monitoring activities deemed desirable by the County. The applicant shall designate an individual who is to be available at all times for purposes of supplying information deemed necessary by the authorized County representatives in connection with such work during working hours.

25. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

26. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:

    a. The permit was obtained or extended by fraud.

    b. One or more of the conditions upon which the permit was granted have been violated.

c. The use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance. Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

27. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.

28. A copy of the reclamation plan and grading plan shall be kept on site at all times.

29. No material shall be placed into or where it may pass into any stream or watercourse in quantities which would be deleterious to fish, wildlife or other beneficial uses.

30a. The applicant shall provide Mendocino County with a cash or surety bond or other acceptable form of financial assurance for the reclamation plan mitigation measures. The bond shall be available to both the County of Mendocino and the Department of Conservation. Any withdrawals made by the County or Department of Conservation for reclamation shall be re-deposited by the applicant within 30 days of notification.

The bond amount shall be calculated based on a cost estimate submitted by the applicant and approved by both County staff and the Department of Conservation for the approved reclamation procedures. The bond shall be established and in place within six (6) months of project approval. Each year, following annual site inspection, the bond amount shall be adjusted to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

The security bond is not set up to replace the applicant's responsibility for reclamation or mitigation, but to assure funding for the reclamation plan and mitigation measures. Should the applicant fail to perform or operate within all the requirements of the approved reclamation plan, the County or Department of Conservation will follow the procedures outlined in Section 2773.1 and 2774.1 of the Surface Mining and Reclamation Act (SMARA), regarding the encashment of the bond and applicable administrative penalties, to bring the applicant into compliance. The requirements for the bond will terminate when the approved reclamation plan and mitigation measures have been completed.

30b. Implementation and Verification. The financial assurance shall name both the County and the Department of Conservation as payees per the requirements of AB 3551. The amount will be based on an estimate of reclamation cost provided by the applicant and subject to review by both County staff and Counsel and the Department of Conservation. The financial assurance will be reviewed on an annual basis for adequacy and shall be released when the approved project, mitigation measures and final reclamation plan activities have been completed.

31. Pursuant to Section 2772.7 of the California Public Resources Code, the applicant/operator shall have recorded with the County Clerk, a "Notice of Reclamation Plan Approval" that shall include:

a. Statement that "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the County of Mendocino, a copy of which is on file with County Department of Planning and Building Services," and;

b. A legal description of the property subject to the said reclamation plan.

** Indicates Mitigation Monitoring and Reporting Program conditions associated with the Environmental document.