

From: PALERMO MAINTENANCE CORP <palermo@cpm1.com>

Sent: Thursday, January 14, 2021 6:18 PM

To: Bertoline, Justin <Justin.Bertoline@ventura.org>; justine.bertoline@ventura.org

Subject: Pacific Rock Quarry Expansion Project Draft Environmental Impact Report

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Spam.Manager@ventura.org

Please find attached response by Palermo Maintenance Corporation to the draft EIR.

Regards,

Kerri Brown | Community Manager |
| Community Property Management |
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Our office will be closed on Monday, January 18, 2021 for the Martin Luther King Jr. Holiday.

The CPM team is here working hard for you and your Community. However, due to the current pandemic, for the safety of our staff our office is closed to the public. Our meeting rooms are also closed. We apologize for any inconvenience and do appreciate your understanding.



Palermo Maintenance Corporation

Newbury Park, CA 91320

Justine Bertoline
Case Planner
County of Ventura Resource Management Agency Planning Division
8005 Victoria Avenue, Ventura, CA 93009 - 1740

Case Number LU10-0003
Pacific Rock, Inc., Applicant
Draft Environmental Report (“EIR”)

By email to: Justin.Bertoline@ventura.org

January 14, 2021

Dear Ms. Bertoline

Palermo Maintenance Corporation (“Palermo”) is the homeowners’ association for the development known as Palermo and which comprises 71 homes on Via Sandra
Via Olas
Via Nicola and
Via Mira Flores
in the Dos Vientos development in Newbury Park.

The Palermo Board of Directors has the following comments on the draft EIR.

Term

Section 2.1 says that the Project would extend the life of the existing permitted operations for an additional 30 years.

It is unclear to us how the application went to 30 years from the 25 years in the 2017 Notice of Preparation regarding Pacific Rock Quarry Mine Expansion Project. We have not seen anything recording that, so how did it occur and how and when was it publicized?

The existing permit was due to have expired on July 17, 2010, which is now 11 ½ years ago. **So the Project Proposal would effectively be in excess of a 40 year**

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extension and would allow the quarry owner to benefit from the long delay which has occurred in getting to the point of approval and during which the quarry has been permitted to continue operating.

Whether the term is 30 years from the date of the original application or the date of approval, it is far too long considering:

The proximity of the operation to Dos Vientos, the funeral home and the surrounding community

The fact that this exceeds the original application extension and

On the occasion of the last extension, March 25, 1999, the Ventura County Planning Commission approved only a 10-year permit extension (CUP 3817-2).

We therefore consider that the term of the extension should be limited to 10 years from the date of approval. That would still mean an extension of over 20 years from the expiry of the existing approval.

Operating Hours

The Project would expand the hours of operations and operating days per week. Operational hours for equipment maintenance and aggregate hauling would be expanded to 5:30 AM to 10:00 PM. The project would also allow for 24-hour operations to accommodate special circumstances up to 60 days per year to accommodate County Public Works Agency projects, California Department of Transportation projects, Ventura County Resource Management Agency and other special projects that require nighttime deliveries. Weekly operations would be expanded to include Sundays for equipment maintenance and aggregate hauling.

Although the operating schedule for mining excavation and processing would not change, **we see no justification for any equipment maintenance or aggregate hauling activity (and associated lighting) being permitted**

a) 7 days a week

b) from 5:30 a.m. to 10:00 p.m. (that is, 16 1/2 hours a day)

We consider that, as in the existing CUP-3817 -3, operations outside the specified hours should not be permitted without specific prior written approval from the Ventura County Planning Director, should be limited to emergency situations and should not be a matter for any of the other agencies or the quarry owner to decide for themselves.

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Recycling Plant

Section 2.6.6 says that the Applicant proposes the use of a “portable recycling plant to crush and process recycled concrete and asphalt at the site, to be located as shown on Figure 2-5, “Existing and Proposed Structures and Equipment.”

“The recycle plant would utilize conveyors, a crusher, and screen to recycle materials. The plant would be approximately 133 feet in length, 115 feet wide, and 30 feet high. Up to 30,000 cubic yards per year of concrete and asphalt debris would be received, crushed, and sold as base material. Material received and shipped would be considered in the operation’s 60 loads per day truck trip limit. See site plan and attachments for details on the plant and location on the site.”

We cannot see the location of the recycling plant on Fig 2.5, as suggested. That should be corrected in the final EIR. The location is shown on Figure 3.8.1 but not in a precise manner.

We are concerned that recycling plant is described as portable. The plant is very large.

We consider that, if the recycling plant is permitted (please see under Alternatives, below), its location and all associated lighting should be required to be, and to remain, out of line of sight of all yards and of all stories of the houses on all Palermo streets (and Via Pisa, which is not in Palermo but is in Dos Vientos) and that once the initial, precise, location has been approved any change should also require prior approval.

Fugitive Dust Reduction Measures

It is, in our view, essential that fugitive dust reduction measures be employed for all aspects of the operation including but not limited to use of water sprays and that all existing requirements referenced in section 3.4-24 should remain in force.

Visual Resources

Section 3.2.1.3 says that the assessment did not include reconnaissance of views from within private residential properties but that the analysis recognizes that portions of the Project site may be visible from yards or interior areas of residential

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properties nearest the southeastern site of the site. That is what we found in our enquiries of the homeowners, the results of which we supplied to the Planning Division.

Then, under Simulation of Views from Areas North, East, and South of the Site Section 3.2.2.2 says that:

“This disturbance and the uniform, angular benched and pad areas created by mining would be inconsistent with the visual character of surrounding hillside areas and would substantially modify the existing character of the viewshed. The additional mined areas would be dominant within the overall scale of the view down the slopes below this viewpoint and views toward Conejo Mountain.”

“.....the visibility of the additional mined areas and their dominance in the viewshed is considered to be a high degree of adverse visual change to the existing character of views from these areas. Revegetation of pad areas would reduce the visual effects of mining as vegetation becomes established over time. However, the disturbance and angular features created by mining and the substantially reduced vegetation density and cover as compared to existing conditions and adjacent areas would result in a permanent substantial reduction in the visual quality of the viewshed. While views from the areas represented by Viewpoint 4 vary depending on the viewer location in areas north, east, and south of the site, the general overall effect of expanded mining would be similar to that demonstrated by Viewpoint 4. The changes in the visual character of the Project site resulting from the proposed mine expansion would represent a high degree of adverse change in visual quality.”

“Impact VIS-1 is therefore considered significant and unavoidable for the purposes of the analysis in this EIR. (Note that Chapter 4 of this EIR evaluates alternatives to the proposed Project and that evaluation considers an alternative that would reduce the mine area as compared to the proposed Project. As discussed in Chapter 4, a reduced mine area would reduce the visual impact of the proposed Project.)” The simulated photos, especially Fig. 3.2-7, vividly show how the expanded mining area would blight the view from Via Sandra and elsewhere, including trails.

We therefore recommend an alternative project with reduced mining area. Please see below.

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Noise

The draft EIR suggests in Section 3.8.2.2 MM NV-1 that

“the Permittee shall cause a qualified acoustician to conduct noise measurements at R1 or R2-B. If measured noise levels exceed 55 dBA at R1 or R2-B, activities within the line-of-site of the respective receptor shall cease and shall not resume unless and until such time as the Permittee identifies additional noise control measures with analysis indicating that such measures are sufficient to avoid operational noise in excess of 55 dBA at the respective receptor and until receiving written authorization by the County that such operations may resume. The Permittee shall comply with the requirements of this measure for any subsequent resumed or newly initiated Project-related operations within line-of-sight of receptor R1 or R2-B.”

We support that requirement but it is important that:

It applies to all activities, including the recycling plant

The final EIR specifies how frequently the activities are to be measured and to whom the analysis and proposed mitigation techniques are to be submitted

The acoustician is one approved by the County and

The requirement is actively enforced.

We also think it is essential that the proposed mitigation requirements, such as reducing the hours of operation and prohibiting the aggregate plant and the recycling plant from operating concurrently, are monitored and enforced.

Blasting

Although the draft EIR concludes that “project-related groundborne vibration impacts associated with blasting would be less than significant”, our own survey of Via Sandra homeowners showed that the owners of 5 lots considered that the blasting ranged from strongly perceptible to intolerable.

Section 2.6.3 says that primary blasts are conducted approximately twice a year. Smaller blasts are performed up to twice per week and include up to about 10 holes per blast.

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However, Section 2.6.2 says that the Applicant requests an increase in permitted annual production and sales from the existing 86,000 tons per year to 468,000 tons per year.

If production is expanded by a factor of 5½, blasting will presumably have to be either much more frequent or involve much bigger blasts or both. **That consequence does not appear to be addressed in the draft EIR, but it should be.**

Also, we previously suggested that the quarry should be required to observe the same requirements as the City of Thousand Oaks has, for residential developments, for notifying affected residents in advance each time blasting is to occur. That does not seem to be reflected in the draft EIR. **It should be made a requirement of any approval of the Project that, not less than 24 hours before any blasting, an email notification be sent to all residents on all the Palermo Streets who supply an email address for that purpose and that the notification specify the time and duration of the blasting. That is all the more important if the frequency and/or size of blasts is increased.**

Alternatives

Of the alternatives addressed in 5.4, we would prefer Alternative A—No Project.

However, we recognize that the County is unlikely to approve that alternative as it has an interest in preserving a local source of road and other materials and there is presumably a risk that, if alternative A were to be approved, the quarry owner would seek to pursue the vested interest claim which it previously made and then, we assume, withdrew under the Compliance Agreement of October 19, 2015. As the Compliance Agreement states that it does not constitute an enforceable contract, we assume that the claim has not been abandoned in any legally binding way, although we are not in a position to assess whether the claim to a vested interest has any merit.

We consider that the next best alternative of those proposed would be Alternative C.

However, that alternative would allow the mining area to be increased.

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We consider that a further alternative should be presented; the same as alternative C (no asphalt and concrete recycling operations, no installation of a security trailer and no operations on Sundays or outside of the currently permitted hours of 7:00 a.m. to 4:00 pm) but with mining only allowed to continue within the existing CUP area, of which a considerable part has not yet been quarried, according to Fig 2-3. **The duration should, however, be limited in time as recommended above.**

We therefore consider that the EIR is incomplete in that respect and does not meet the CEQUA standard that:

“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”

We imagine that the Resource Management Agency already has all the information needed to analyze and present that further alternative.

Other Matters

A. We refer above to the quarry owner's claim to vested rights.

Whatever the merits or demerits of that claim, **the owner should be required, as a pre-condition of any approval, to surrender in a binding and permanent manner, any such rights as it may have, in order to preclude it from reviving that claim on any future occasion.**

B. Section 1.4 says that “The request includes expansion of the mining area to the east to address slope conditions at the northerly and northeasterly side of the quarry and expansion onto recently acquired adjacent land.”

That is an area which is close to Via Sandra and Via Pisa and to the Powerline Trail and further mining of which would reduce the width of an already narrow wildlife corridor.

The slope conditions referred to are presumably the over-steepening of the slope which we understand was effected in breach of the existing CUP. The quarry owner (and/or its predecessor) will already have profited from that mining. It is, in our view, wrong that that breach should be further rewarded by permission for

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additional mining in, and revenue from, that area. **We therefore consider that the owner should be required to correct the over-steepening by infill and should not be permitted to expand that mining area.**

Yours truly



Robert Crudup

President, on behalf of the Board of Directors

Palermo Maintenance Corporation

c/o Community Property Management, attn. Kerri Brown

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