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Multifamily Housing Developers

Multifamily housing projects of two or more units are subject to the Affordable Housing Production Program (AHPP), which is codified in Section 9.64

(http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64&frames=off) of the Municipal Code. Options for complying with AHPP differ depending on whether the multifamily development involves condominiums or apartments.

Requirements for condominium projects in multifamily zones:

2 or 3-unit projects: may pay the Affordable Housing Fee instead of dedicating an onsite or offsite unit as affordable housing.

4 to 15-unit projects: must provide onsite or offsite units

- 20% of the units onsite as moderate-income ownership housing (see table (https://www.smgov.net/uploadedFiles/Departments/HED/Housing_and_Redevelopr ([https://www.smgov.net/uploadedFiles/Departments/HED/Housing and Redevelopr](https://www.smgov.net/uploadedFiles/Departments/HED/Housing_and_Redevelopr)

- 20% of the units onsite as low-income rental housing
- 10% of the units onsite as very low-income rental housing
- 5% of the units onsite as extremely low-income rental housing
- if offsite, 25% more units than would have been required onsite

16+ unit projects: must provide onsite or offsite units

- 25% of the units onsite as moderate-income ownership housing (see table (https://www.smgov.net/uploadedFiles/Departments/HED/Housing_and_Redevelopr (https://www.smgov.net/uploadedFiles/Departments/HED/Housing_and_Redevelopr
- 25% of the units onsite as low-income rental housing
- 15% of the units onsite as very low-income rental housing
- 10% of the units onsite as extremely low-income rental housing
- if offsite, 25% more units than would have been required onsite

The affordable housing "Unit Development Cost" applies when a developer provides onsite or offsite affordable units, but the number of required units includes a fraction of a unit where the fraction is less than 0.75 units (see below for more information).

NOTE: Condominium projects not located in multifamily residential zones may pay the Affordable Housing Fee or provide land to the City or nonprofit instead of providing onsite or offsite affordable units.

Requirements for apartment projects in all zones:

Developer options for satisfying the program:

- Provide affordable units onsite
- Provide affordable units offsite
- Pay the Affordable Housing Fee (and Unit Development Cost if applicable)
- Provide land to the City or nonprofit for affordable housing

Onsite Option:

- 5% of the units for extremely low-income households
- 10% of the units for very low-income households
- 20% of the units for low-income households

- 100% of the units for moderate-income households

Units have minimum size requirements and must be 2-bedroom units unless at least 95% of the project is 1-bedroom and/or single units (see Section 9.64.050[E] (http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64-9_64_050&frames=off)).

Providing units onsite will automatically qualify the project for a density bonus (discuss with City Planning for details).

The Affordable Housing Unit Development Cost applies when a developer provides onsite or offsite affordable units, but the number of required units includes a fraction of a unit where the fraction is less than 0.75 units (see below for more information).

More details on the onsite option

(http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64-9_64_050&frames=off)

Offsite Option:

Condominium projects providing affordable units offsite must provide 25% more units than would otherwise be provided onsite. The off-site units shall be located within a .25 mile radius of the market rate units. Additional conditions apply when providing offsite affordable housing – see Section 9.64.060

(http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64-9_64_060&frames=off).

More details on the offsite option

(http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64-9_64_060&frames=off)

Affordable Housing Fee:

\$35.70 / square foot for apartments (effective 11/01/18; updated annually)

\$41.70 / square foot for condominiums (effective 11/01/18; updated annually)

Fee is due prior to completion of project, but not before building permit issuance, and the amount of fee due is based on fee amount in effect at time of payment. Fee is subject to change by City Council resolution. Fee has been established by resolution pursuant to Santa Monica Municipal Code Section 9.64.070 (http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64-9_64_070&frames=on).

Unit Development Cost:

The unit development cost is paid if the developer chooses to provide onsite or offsite affordable units and number of required units includes a fraction of a unit where the fraction is less than 0.75 units.

Per Section 9.64.070(a)(4) of the Santa Monica Municipal Code, if the developer is required to build a fraction of an affordable housing unit where the fraction is smaller than three quarters of a unit, or 0.75 units, the developer will instead pay that fraction times the current per unit cost to the City for building affordable housing.

That cost is calculated and updated annually. The current unit development cost is \$374,555, per the City Council meeting dated August 14, 2018.

Land Option:

More details on the Land option (http://www.qcode.us/codes/santamonica/view.php?topic=9-6-9_64-9_64_080&frames=off)

Monitoring fees (effective November 1, 2018)

All AHPP properties are subject to the below monitoring fees, to be paid to the City of Santa Monica.

	Ownership	Rental
Annual Report/Monitoring*	\$34.02	\$153.07

Initial (Sale/Start Up)**	\$153.07	\$192.75
Resale/Re-occupancy***	\$136.06	\$164.41

*The Annual fee will not be charged in the same year as the Initial (aka "Start Up") fee.

**The Initial fee is only applicable to NEW constructions for both Ownership and Rental.

***Dependent on whether use of SM Housing Division waitlist is necessary for re-occupancy for Rental property.

These fees permitted by City Ordinance

(<http://www.smgov.net/departments/council/agendas/2011/20111122/s2011112207-E-1.pdf>) and established by City Resolution

(<http://www.smgov.net/departments/council/agendas/2011/20111122/s2011112207-E-2.pdf>).

Maximum income and rent limit charts

The current maximum income and rent limit charts are available here

(<https://www.santamonica.gov/housing-ahpp-limits>).

For additional information, please call Jonathan Carr at 310-434-2631 or City Planning at 310-458-8341.

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City of Santa Monica

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Article 9 PLANNING AND ZONING

Division 6: Land Use and Zoning Related Provisions

Chapter 9.64 AFFORDABLE HOUSING PRODUCTION PROGRAM

9.64.050 On-Site Option

The following requirements must be met to satisfy the on-site provisions of this Chapter:

A. For ownership projects of at least four units but not more than fifteen units in multi-family residential districts, the multi-family project applicant agrees to construct at least: (1) twenty percent of the total units as ownership units for moderate-income households at an Affordable Ownership Housing Cost, or as an alternative; (2) twenty percent of the total units as rental units for 80% income households at affordable rent if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2); (3) ten percent of the total units as rental units for 50% income households at affordable rent if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2); or (4) five percent of the total units as rental units for 30% income households at affordable rent if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2).

B. For ownership projects of sixteen units or more in multi-family residential districts, the multi-family project applicant agrees to construct at least: (1) twenty-five percent of the total units as ownership units for moderate-income households at an Affordable Ownership Housing Cost, or as an alternative; (2) twenty-five percent of the total units as rental units for 80% income households at affordable rent if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2); fifteen percent of the total units as rental units for 50% income households at affordable rent if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2); or (4) ten percent of the total units as rental units for 30% income households at affordable rent if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2).

C. For all other multi-family applicants, the multi-family project applicant agrees to construct at least:

1. five percent of the total units of the project for 30% income households at affordable rent;
2. ten percent of the total units of the project for 50% income households at affordable rent;
3. twenty percent of the total units of the project for 80% income households at affordable rent; or
4. one hundred percent of the total units of a project for moderate income households at affordable rent.

D. Except as provided in Section 9.23.030(A), any fractional affordable housing unit that results from the formulas of this Section that is 0.75 or more shall be treated as a whole affordable housing unit (i.e., any resulting fraction shall be rounded up to the next larger integer) and that unit shall also be built pursuant to the provisions of this Section. Any fractional affordable housing unit that is less than 0.75 can be satisfied by the payment of an affordable housing fee for that fractional unit only pursuant to Section 9.64.070(A)(2) or by constructing all the mandatory on-site affordable units with three or more bedrooms. The City shall make available a list of income levels for 30% income households, 50% income households, 80% income households, and moderate income households, adjusted for household size, the corresponding maximum affordable rents adjusted by household size appropriate for the unit, and the minimum number of units required for 30% income households, 50% income households, or 80% income households required for typical sizes of multi-family projects, which list shall be updated periodically.

E. The multi-family project applicant may reduce either the size or interior amenities of the affordable housing units as long as there are not significant identifiable differences between affordable housing units and market rate units visible from the exterior of the dwelling units; provided, that all dwelling units conform to the requirements of the applicable Building and Housing Codes. However, except as provided in Section 9.23.030(A), each affordable housing unit provided shall have at least two bedrooms unless:

1. The proposed project comprises at least ninety-five percent one bedroom units, excluding the manager's unit, in which case the affordable housing units may be one bedroom;
2. The proposed project comprises at least ninety-five percent zero bedroom units, excluding the manager's unit, in which case the affordable housing units may be zero bedroom units;
3. The proposed project comprises zero and one bedroom units, excluding the manager's unit, in which case the affordable housing units must be at least one bedroom units; or
4. The multi-family project applicant has elected not to pay the affordable housing fee pursuant to Section 9.64.070(A)(2), in which case the affordable housing units must be at least three bedroom units. The design of the affordable housing units shall be reasonably consistent with the market rate units in the project. An affordable housing unit shall have a minimum total floor area, depending upon the number of bedrooms provided, no less than the following:

0 bedrooms	500 square feet	1 occupant
1 bedroom	600 square feet	1 occupant
2 bedrooms	850 square feet	2 occupants
3 bedrooms	1,080 square feet	3 occupants
4 bedrooms	1,200 square feet	5 occupants

Affordable housing units in multi-family projects of one hundred units or more must be evenly disbursed throughout the multi-family project to prevent undue concentrations of affordable housing units.

F. All affordable housing units in a multi-family project or a phase of a multi-family project shall be constructed concurrently with the construction of market rate units in the multi-family project or phase of that project.

G. On-site affordable housing units must be rental units in rental projects. In ownership projects, these affordable housing units may be either rental units or ownership units.

H. Each multi-family project applicant, or his or her successor, shall submit an annual report to the City identifying which units are affordable units, the monthly rent (or total housing cost if an ownership unit), vacancy information for each affordable unit for the prior year, verification of income of the household occupying each affordable unit throughout the prior year, and such other information as may be required by City staff.

I. A multi-family project applicant in a residential district who meets the requirements of this Section shall be entitled to the density bonuses and incentives provided by Sections 9.22.020 or any successor thereto and 9.22.030 or any successor thereto and the waiver/modification of development standards provided by Section 9.22.040 or any successor thereto. A multi-family project applicant in a commercial or industrial district shall be entitled to the development bonuses and incentives provided in the Land Use and Circulation Element and implementing ordinances.

J. All residential developments providing affordable housing on-site pursuant to the provisions of this Section shall receive priority building department plan check processing by which housing developments shall have plan check review in advance of other pending developments to the extent authorized by law.

K. The City Council may by resolution establish compliance monitoring fees which reflect the reasonable regulatory cost to the City of ensuring compliance with this Section when affordable housing units are being initially rented or sold, when the required annual reports are submitted to the City, and when the units are being re-sold or re-leased. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015; amended by Ord. No. 2520CCS § 63, adopted June 14, 2016)

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9.64.060 Off-Site Option

The following requirements must be met to satisfy the off-site option of this Chapter:

- A. The multi-family project applicant for ownership projects of four or more units in multi-family residential districts shall agree to construct twenty-five percent more affordable housing units than number of affordable housing units required by Section 9.64.050(A) and (B).
- B. For all other multi-family project applicants, the applicant shall agree to construct the same number of affordable housing units as specified in Section 9.64.050(C).
- C. The multi-family project applicant shall identify an alternate site suitable for residential housing which the project applicant either owns or has site control over (e.g., purchase agreement, option to purchase, lease) subject to City review to ensure that the proposed development is consistent with the City's housing objectives and projects.
- D. The off-site units shall be located within a one-quarter mile radius of the market rate units.
- E. The off-site units shall satisfy the requirements of subsections (D) through (J) of Section 9.64.050.
- F. The off-site units shall not count towards the satisfaction of any affordable housing obligation that development of the alternative site with market rate units would otherwise be subject to pursuant to this Chapter.
- G. Exceptions to the location of the off-site units specified in this Section may be granted by the Planning Commission on a case-by-case basis upon a showing by the multi-family project applicant, based upon substantial evidence, that the location of off-site units in a location different from that specified in this Section better accomplishes the goals of this Chapter, including maximizing affordable housing production and dispersing affordable housing throughout the City.
- H. The City Council may by resolution establish compliance monitoring fees which reflect the reasonable regulatory cost to the City of ensuring compliance with this Section when affordable housing units are initially being rented or sold, when the required annual reports are submitted to the City, and when the units are being re-sold or re-leased. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015)

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A multi-family project applicant eligible to meet the affordable housing obligations established by this Chapter by paying an affordable housing fee shall pay the fee in accordance with the following requirements:

A. An affordable housing fee may be paid in accordance with the following formulas:

1. Affordable housing unit base fee x floor area of multi-family project;
2. Multi-family projects with fractional affordable housing units of less than 0.75 based on the formula established in Section [9.64.050](#):

(City's affordable housing unit development cost) x (fractional percentage)

B. For purposes of this Section, the affordable housing unit base fee shall be established by resolution of the City Council. Commencing on July 1, 2006 and on July 1st of each fiscal year thereafter, the affordable housing unit base fee shall be adjusted based on changes in construction costs and land costs. The amount of the affordable housing fee that the multi-family project applicant must pay shall be based on the affordable housing unit base fee resolution in effect at the time that the affordable housing fee is paid to the City.

C. For purposes of this Section, the City's affordable housing unit development cost shall be established by resolution of the City Council. Commencing on July 1, 2007 and on July 1st of each fiscal year thereafter, the City's affordable housing unit development cost shall be adjusted based on changes in construction costs and land costs. The affordable housing fee that the multi-family project applicant must pay shall be based on the affordable housing unit development cost resolution in effect at the time of payment to the City.

D. The amount of the affordable housing unit base fee may vary by product type (apartment or condominium) and shall reflect, among other factors, the relationship between new market rate multi-family development and the need for affordable housing.

E. The affordable housing fee shall be paid in full to the City prior to the City granting any approval for the occupancy of the project, but no earlier than the time of building permit issuance.

F. The City shall deposit any payment made pursuant to this Section in a reserve account separate from the General Fund to be used only for development of affordable housing, administrative costs related to the production of this housing, and monitoring and evaluation of this affordable housing production program. Any monies collected and interest accrued pursuant to this Chapter shall be committed within five years after the payment of such fees or the approval of the multi-family project, whichever occurs later. Funds that have not been appropriated within this five-year period shall be refunded on a pro rata share to those multi-family project applicants who have paid fees during the period. Expenditures and commitments of funds shall be reported to the City Council annually as part of the City budget process.

G. An affordable housing fee payment pursuant to this Section shall not be considered provision of affordable housing units for purposes of determining whether the multi-family project qualifies for a density bonus pursuant to [Government Code](#) Section 65915. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015)

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9.64.080 Land Acquisition

A. A multi-family project applicant may meet the affordable housing obligations established by this Chapter by making an irrevocable offer:

1. Dedicating land to the City or a non-profit housing provider;
2. Selling of land to the City or a non-profit housing provider at below market value; or
3. Optioning of land on behalf of the City or a non-profit housing provider.

Each of these options must be for a value at least equivalent to the affordable housing obligation otherwise required pursuant to this Section.

B. The multi-family project applicant must identify the land at the time that the development application is filed with the City. Any land offered pursuant to this Section must be located within one-quarter mile radius of the market rate units unless the multi-family project applicant demonstrates that locating the land outside of this radius better accomplishes the goals of this Chapter, including maximizing affordable housing production and dispersing affordable housing throughout the City. The City may approve, conditionally approve or reject such offers subject to administrative guidelines to be prepared by the City Manager or designee. If the City rejects such offer, the multi-family project applicant shall be required to meet the affordable housing obligation by other means set forth in this Chapter. (Added by Ord. No. 2486CCS §§ 1, 2, adopted June 23, 2015)

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ORDINANCE NUMBER _____ (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 9.56.050
AND SECTION 9.56.060 TO AUTHORIZE THE ESTABLISHMENT BY RESOLUTION
OF COMPLIANCE MONITORING FEES BASED ON THE REASONABLE
REGULATORY COSTS OF ENSURING COMPLIANCE WITH THE CITY'S
AFFORDABLE HOUSING PRODUCTION PROGRAM AND ANNUALLY MONITORING
AFFORDABLE HOUSING UNITS

WHEREAS, the City's Affordable Housing Production Program, Chapter 9.56 of the Santa Monica Municipal Code (the "AHPP"), requires developers of multi-family housing project to contribute to affordable housing production and thereby help the City meet its affordable housing goals; and

WHEREAS, the requirements of the AHPP are based on a number of factors including, but not limited to, the City's long-standing commitment to economic diversity; the serious need for affordable housing as reflected in local, state, and federal housing regulations and policies; the demand for affordable housing created by market rate development; the depletion of potential affordable housing sites by market-rate development; and the impact that the lack of affordable housing production has on the health, safety, and welfare of the City's residents including its impacts on traffic, transit

and related air quality impacts, and the demands placed on the regional transportation infrastructure; and

WHEREAS, subject to certain exceptions, the requirements of the AHPP can be met through various alternatives including providing affordable housing units on-site, providing affordable housing units off-site, acquiring land for affordable housing, and paying an affordable housing fee; and

WHEREAS, when a developer has chosen to meet the requirements of the AHPP through the provision of on-site or off-site rental housing and is preparing to rent the affordable unit(s), the developer must select households from a City-developed list of income-qualified households except for ownership projects of four or more units where income-eligible households may be selected by the developer, submit a copy of the proposed lease agreement for City review/approval, and prepare a deed restriction to be recorded on the property consistent with the requirements of the AHPP; and

WHEREAS, when a developer has developed an ownership project and is preparing to initially sell the affordable unit(s), the developer must submit a brief marketing plan and a description of the buyer selection process which includes implementation of the City's local preference policy, submit the buyer's income-eligibility documentation for City review/verification, and provide information regarding buyer financing terms for City review for consistency with affordability criteria established in Section 9.56.100 and the Administrative Guidelines for the AHPP; and

WHEREAS, after the developer has rented the affordable unit(s), the developer or his/her successor must submit an annual report to the City identifying which units are affordable units, the monthly rent (or total housing cost if an ownership unit), vacancy

information for each affordable unit for the prior year, verification of income of the household occupying each affordable rental unit throughout the prior year, and such other information as may be required by City staff to determine compliance with the AHPP; and

WHEREAS, when a vacancy for an affordable rental unit occurs and the developer is preparing to re-rent the unit, the developer must select households from a City-developed list of income-qualified households unless ownership housing; and

WHEREAS, when the owner of an affordable ownership unit seeks to sell that unit, the owner must submit a brief marketing plan and a description of the buyer selection process which includes implementation of the City's local preference policy, submit the buyer's income-eligibility documentation for City review/verification; and provide information regarding buyer financing terms for City review for consistency with affordability criteria established in Section 9.56.100 and the Administrative Guidelines for the AHPP; and

WHEREAS, when a developer seeks initially to lease his/her affordable unit(s), City staff must engage in the following work efforts: review sample lease agreement, obtain prospective tenant names from City-administered waiting list, interview applicant and review income/asset documentation for eligibility, provide referral list of income-qualified applicants to developer, review deed restriction and add the record to monitoring database for new unit; and

WHEREAS, when a developer seeks initially to sell an affordable ownership unit, City staff must engage in the following work efforts: review deed restriction and add record to monitoring database for unit, review draft marketing plan, review buyer

income/asset documentation, review purchase agreement and buyer financing terms, and provide program information to buyer regarding resale restrictions; and

WHEREAS, when a developer submits his/her annual report for an affordable rental unit, City staff must engage in the following work efforts: prepare letter to owner regarding the annual report, review submitted report, schedule monitoring appointment, engage in compliance monitoring, and review tenant annual income recertification files; and

WHEREAS, when a developer submits his/her annual report for an affordable ownership unit, City staff must engage in the following work efforts: prepare letter to owner regarding the annual report and review annual report documentation to confirm that designated owner still lives in unit; and

WHEREAS, when a developer seeks to re-lease an affordable unit, City staff must engage in the following work efforts: obtain prospective tenants from City-administered waiting list and schedule appointment, interview applicant and review income/asset documentation for eligibility, and provide referral list of income-qualified applicants to developer; and

WHEREAS, when an owner seeks to re-sell an affordable unit, City staff must engage in the following work efforts: review new buyer income/asset documentation for eligibility, review purchase agreement and new buyer financing terms, and provide program information to new buyer regarding resale restrictions; and

WHEREAS, on June 14, 2011, the City Council directed staff to prepare an ordinance authorizing the establishment of a fee to recover the City's reasonable regulatory costs of performing investigations and audits to ensure that the affordable

housing units comply with the AHPP and this ordinance has been prepared in response to Council's direction; and

WHEREAS, the November 8, 2011 City Council staff report details the tasks that staff must undertake, the time for performing these tasks, the classification of the employees performing these tasks, their hourly rate, and the overall staff costs of ensuring compliance with the AHPP and monitoring affordable housing units; and

WHEREAS, compliance monitoring fees are necessary to permit the City to offset the reasonable regulatory costs associated with ensuring compliance with the AHPP and monitoring the affordable housing units,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 9.56.050 is hereby amended to read as follows:

9.56.050 On-site option.

The following requirements must be met to satisfy the on-site provisions of this Chapter:

(a) For ownership projects of at least four units but not more than fifteen units in multi-family residential districts, the multi-family project applicant agrees to construct at least: (1) twenty percent of the total units as ownership units for moderate-income households, or as an

alternative; (2) twenty percent of the total units as rental units for low-income households if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2).

(b) For ownership projects of sixteen units or more in multi-family residential districts, the multi-family project applicant agrees to construct at least: (1) twenty-five percent of the total units as ownership units for moderate-income households, or as an alternative; (2) twenty-five percent of the total units as rental units for low-income households if these rental units are provided by the applicant in accordance with Civil Code Sections 1954.52(b) and 1954.53(a)(2).

(c) For all other multi-family applicants, the multi-family project applicant agrees to construct at least: (1) ten percent of the total units of the project for very-low income households; or (2) twenty percent of the total units of the project for low income households; or (3) one hundred percent of the total units of a project for moderate income households in an Industrial/Commercial District.

(d) Any fractional affordable housing unit that results from the formulas of this Section that is 0.75 or more

shall be treated as a whole affordable housing unit (i.e., any resulting fraction shall be rounded up to the next larger integer) and that unit shall also be built pursuant to the provisions of this Section. Any fractional affordable housing unit that is less than 0.75 can be satisfied by the payment of an affordable housing fee for that fractional unit only pursuant to Section 9.56.070(a)(4) or by constructing all the mandatory on-site affordable units with three or more bedrooms. The Planning and Community Development Department shall make available a list of very low, low, and moderate income levels adjusted for household size, the corresponding maximum affordable rents adjusted by number of bedrooms, and the minimum number of very low or low income units required for typical sizes of multi-family projects, which list shall be updated periodically.

(e) The multi-family project applicant may reduce either the size or interior amenities of the affordable housing units as long as there are not significant identifiable differences between affordable housing units and market rate units visible from the exterior of the dwelling units, provided that all dwelling units conform to the requirements of the applicable Building and Housing Codes. However, each affordable housing unit provided shall have at least two

bedrooms unless: (1) the proposed project comprises at least ninety-five percent one bedroom units, excluding the manager's unit, in which case the affordable housing units may be one bedroom; (2) the proposed project comprises at least ninety-five percent zero bedroom units, excluding the manager's unit, in which case the affordable housing units may be zero bedroom units; (3) the proposed project comprises zero and one bedroom units, excluding the manager's unit, in which case the affordable housing units must be at least one bedroom units; or (4) the multi-family project applicant has elected not to pay the affordable housing fee pursuant to Section 9.56.070(a)(4), in which case the affordable housing units must be at least three bedroom units. The design of the affordable housing units shall be reasonably consistent with the market rate units in the project. An affordable housing unit shall have a minimum total floor area, depending upon the number of bedrooms provided, no less than the following:

0 bedrooms 500 square feet

1 bedroom 600 square feet

2 bedrooms 850 square feet

3 bedrooms 1080 square feet

4 bedrooms 1200 square feet

Affordable housing units in multi-family projects of one hundred units or more must be evenly disbursed throughout the multi-family project to prevent undue concentrations of affordable housing units.

(f) All affordable housing units in a multi-family project or a phase of a multi-family project shall be constructed concurrently with the construction of market rate units in the multi-family project or phase of that project.

(g) On-site affordable housing units must be rental units in rental projects. In ownership projects, these affordable housing units may be either rental units or ownership units. Affordable housing ownership units shall comply with requirements concerning sales price, monthly payment, and limited equity and resale restrictions as established by resolution of the City Council to ensure that subsequent purchasers are also income-qualified households.

(h) Each multi-family project applicant, or his or her successor, shall submit an annual report to the City identifying which units are affordable units, the monthly rent (or total housing cost if an ownership unit), vacancy

information for each affordable unit for the prior year, verification of income of the household occupying each affordable unit throughout the prior year, and such other information as may be required by City staff.

(i) A multi-family project applicant in a residential district who meets the requirements of this Section shall be entitled to the density bonuses and incentives provided by Sections 9.04.10.14.050 and 9.04.10.14.060 and the waiver/modification of development standards provided by Section 9.04.10.14.070. A multi-family project applicant in a commercial or industrial district shall be entitled to the development bonuses and incentives provided in the Land Use and Circulation Element and implementing ordinances.

(j) All residential developments providing affordable housing on-site pursuant to the provisions of this Section shall receive priority building department plan check processing by which housing developments shall have plan check review in advance of other pending developments to the extent authorized by law.

(k) The City Council may by resolution establish compliance monitoring fees which reflect the reasonable regulatory cost to the City of ensuring compliance with this

Section when affordable housing units are being initially rented or sold, when the required annual reports are submitted to the City, and when the units are being re-sold or re-leased.

SECTION 2. Santa Monica Municipal Code Section 9.56.060 is hereby amended to read as follows:

9.56.060 Off-site option.

The following requirements must be met to satisfy the off-site option of this Chapter:

(a) The multi-family project applicant for ownership projects of four or more units in multi-family residential districts shall agree to construct twenty-five percent more affordable housing units than number of affordable housing units required by Section 9.56.050(a) and (b).

(b) For all other multi-family project applicants, the applicant shall agree to construct the same number of affordable housing units as specified in Section 9.56.050(c).

(c) The multi-family project applicant shall identify an alternate site suitable for residential housing which the project applicant either owns or has site control over (e.g.,

purchase agreement, option to purchase, lease) subject to City review to ensure that the proposed development is consistent with the City's housing objectives and projects.

(d) The off-site units shall be located within a one-quarter mile radius of the market rate units.

(e) The off-site units shall satisfy the requirements of subsections (d) through (j) of Section 9.56.050.

(f) The off-site units shall not count towards the satisfaction of any affordable housing obligation that development of the alternative site with market rate units would otherwise be subject to pursuant to this Chapter.

(g) Exceptions to the location of the off-site units specified in this Section may be granted by the Planning Commission on a case-by-case basis upon a showing by the multi-family project applicant, based upon substantial evidence, that the location of off-site units in a location different from that specified in this Section better accomplishes the goals of this Chapter, including maximizing affordable housing production and dispersing affordable housing throughout the City.

(h) The Housing Division of the Resource Management Department shall prepare administrative guidelines to implement this Section.

(i) The City Council may by resolution establish compliance monitoring fees which reflect the reasonable regulatory cost to the City of ensuring compliance with this Section when affordable housing units are initially being rented or sold, when the required annual reports are submitted to the City, and when the units are being re-sold or re-leased.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:


MARSHA JONES MOUTRIE
City Attorney

What problem is ***Regnart Creek Trail*** attempting to solve?

Bicycle Involved Collision reports (2012-YTD April 10, 2019) confirm majority of incidents occur at major arteries and the West side of Cupertino. McClellan, Bubb, De Anza, Stevens Creek, Stelling, Homestead.

Utilize Alternative # 4 of feasibility study to continue providing safe streets and appropriate the estimated \$2.4M for other city projects for the better good of all Cupertino residents.

Allocate money prudently and stop frivolous spending for a “feel good” effort of the bike coalition.

There are existing safe streets already identified by ***Safe Routes 2 Schools***. Alternative # 4.

Eaton Elementary School

Suggested Routes to School

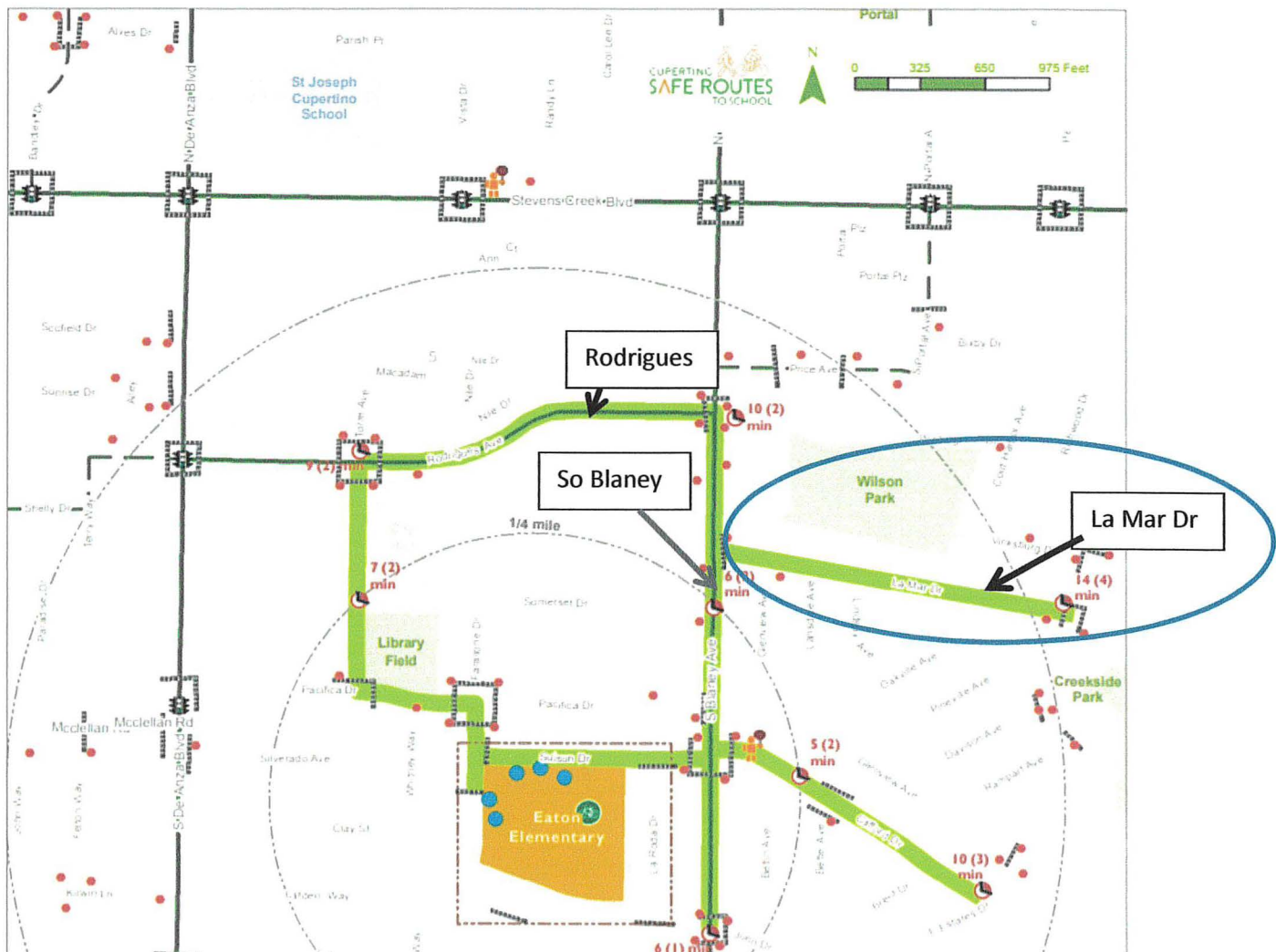
About Safe Routes 2 School:

Cupertino Safe Routes 2 School is a partnership program between the City of Cupertino, Cupertino Schools, Fremont Union High School District, Cupertino Union School District, and the Santa Clara County Sheriff's office. We aim to reduce traffic and pollution and increase safety by bringing people together to craft solutions to the impending traffic concerns facing our community.

- Pedestrian and Bike Access
- Bike Parking
- Crossing Guard
- Pedestrian Flags
- Traffic Signals
- Stop Signs
- Suggested Route (Bike or Walk)
- ⌚ Est Walking Time (Bike Time)
- Crosswalks
- Bike Lane
- Bike Route
- City Boundary

*Use sidewalks and crosswalks when available

Eaton Elementary



La Mar Drive, So. Blaney, Rodriguez are Safe Routes 2 School!

Source: Eaton Elementary School Safe Routes 2 School website (04-14-2019):

<https://www.cupertino.org/home/showdocument?id=21406>

Cupertino High School

Suggested Routes to School

About Safe Routes 2 School:

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- | | | | |
|---|----------------------------|---|--------------------------------|
|  | Pedestrian and Bike Access |  | Suggested Route (Bike or Walk) |
|  | Bike Parking |  | Est Walking Time (Bike Time) |
|  | Bike Repair Station |  | Crosswalks |
|  | Crossing Guard |  | Bike Lane |
|  | Pedestrian Flags |  | Bike Route |
|  | Traffic Signals |  | City Boundary |
|  | Stop Signs | | |

*Use sidewalks and crosswalks when available



La Mar Dr is Safe Route 2 School

Source: Cupertino High School Safe Routes 2 School website (04-14-2019):

<https://www.cupertino.org/home/showdocument?id=21356>

Lawson Middle School

Suggested Routes to School

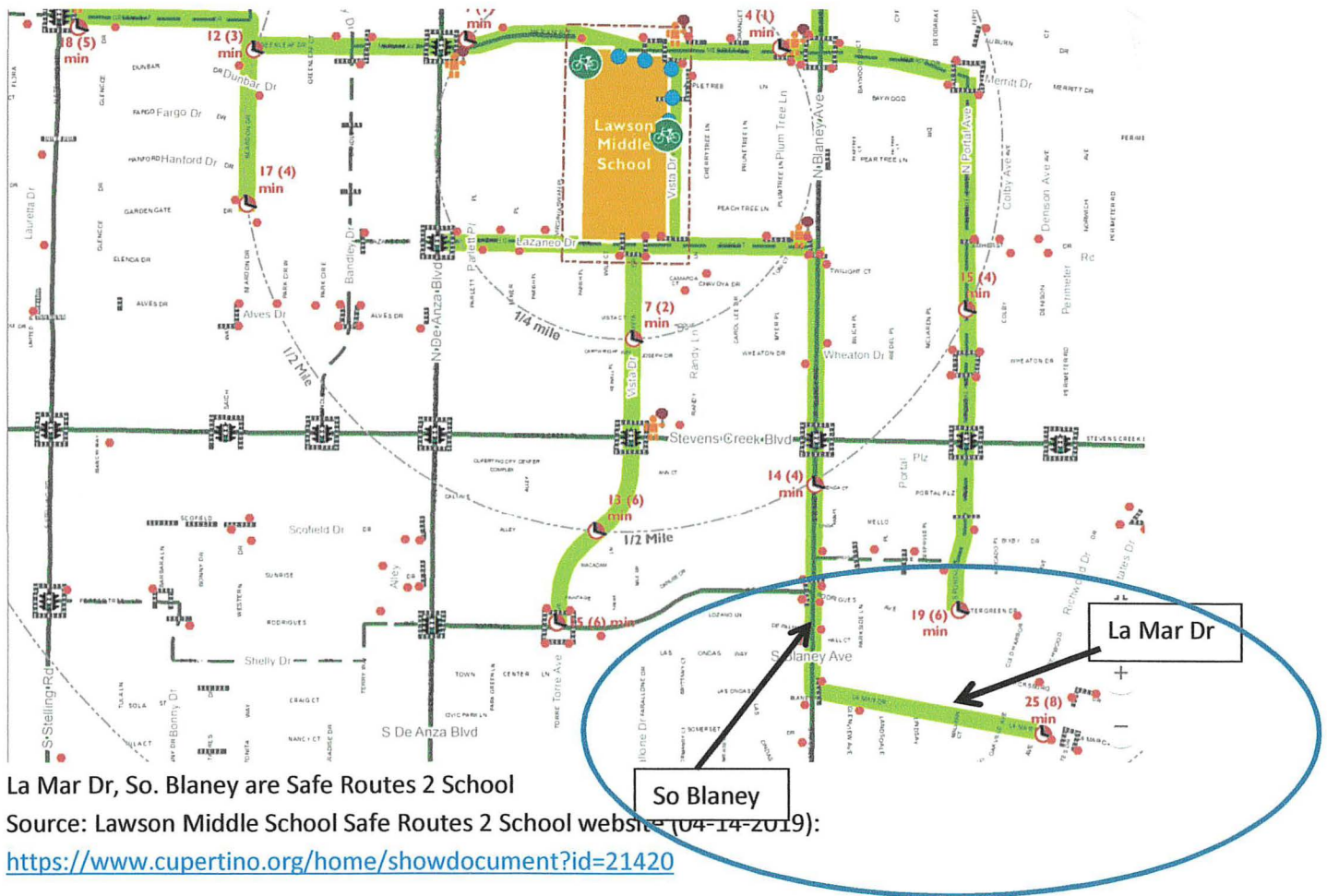
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-  Pedestrian Flags
-  Bike Lane
-  Traffic Signals
-  Bike Route
-  Stop Signs
-  City Boundary

*Use sidewalks and crosswalks when available

Lawson Middle School



CC 4-16-19
DRAL comm.

To: SCC Planning Commission, Planning Dept., SCC Board & City of Cupertino

From: Cathy Helgersen – 408-253-0490 – Email address: Cathyhelger@gmail.com

Regarding: Revised March 2019 Amendment to Permanente Quarry Reclamation Plan

It should be noted that the Permanente Quarry Reclamation Plan Minor Amendment for the Utility Road Reclamation and Boundary Adjustment for California Mine ID No. 91-43-0004 should be listed under Lehigh Hanson/Heidelberg Cement Corporation as stated on all of the pages of this Amendment following the initial title Stated above. I believe that due to the legal matter of all of the paperwork and for all of the people concerned with this matter the new name should be addressed on all papers concerning the proposed Amended Reclamation Plan or any other paperwork that Lehigh submits.

1. Introduction, 1.1 Purpose States – amendments will add approximately 63 acres of land to the existing 1,238.6-acre reclamation plan boundary to include:

. the existing utility road and the area immediately adjacent to the road that will be used to perform reclamation activities (e.g., erosion control) (1.3 acres of existing disturbed area); Refer to Figure Drawing 2.

Comment: There needs to be a determination is the illegal haul road/Utility Road that was used by PG & E a total of 1.3 acres the whole road that Lehigh is trying to put under the New Amended Reclamation Plan they just submitted? The question came up because part of this road is under unincorporated land owned by Lehigh but under Santa Clara County jurisdiction and the other part of the road is under incorporated land still owned by Lehigh but under the City of Cupertino's jurisdiction? The New Amended Reclamation Plan seems to include the portion of the road that is under the City of Cupertino and it seems that Lehigh and SCC want to include this road in the New Amended Reclamation Plan this needs to be clarified one way or the other. I do not think that Lehigh or SCC should be taking over this road if in fact part of it is under the City of Cupertino's jurisdiction. If all Lehigh wants in the New Amended Reclamation Plan is part of the road that SCC has under unincorporated land than what is the point of part of a road that leads to no place. This seems to be something that needs to be discussed by SCC and City of Cupertino lawyers and soon. The other situation maybe that Lehigh will use this road all of it anyway and thinks that the City of Cupertino will allow the use even if it is not under the New Amended Reclamation Plan once the New Amended Reclamation Plan is approved. There should also be no business of moving and selling this greenstone overburden to the Stevens Creek Quarry under any circumstances and it should not be transported on the illegal haul road or on public streets.

3 - Please do not let Lehigh use this PG & E Road under any circumstances and only allow the PG & E or the Fire Department to use this road.

Comment: This existing utility road is the illegal haul road used by the PG & E that was extended and widened without a permit to haul supposed green rock overburden to the Steven Creek Quarry to be processed and sold. I understand from Erica Guerra in a short conversation with her after the Santa Clara County Committee meeting I attended to review the prior Amended Reclamation Plan, when I

decided to ask her the question after the meeting out in the lobby, that everyone has been wondering about and that was, how much of this so called green rock overburden is left to move to Stevens Creek Quarry and she mentioned a lot. I inquired by asking the question how much is a lot and she did not know. This rock I will remind those who are not familiar with the issues had been processed at Lehigh for years and now they decided to have Stevens Creek Quarry process it for them and sell it which is not legal. Lehigh does not need this road to transport green rock overburden to Stevens Creek Quarry for processing and sale this rock should be used for Reclamation to fill the old Lehigh Quarry that is running out of Limestone to mine. There has been no real justification as to why there needs to be the use of this road when city streets can be used and have been used just recently. I do not believe there is a lot of rock left and the use of the public streets would be temporary. The public opposed the use of City streets and complained at a meeting held by the City of Cupertino where over 150 people showed up to voice their concerns. I do not believe that this road can be used temporarily and once all of the held green rock overburden has been moved Lehigh should not be allowed to move any more over to the Stevens Creek Quarry. There is also the argument of is the transport of green rock overburden from Lehigh to the Stevens Creek Quarry should it be allowed and I say no. The movement of green rock overburden on Cupertino City streets has stopped and so has the movement of green rock overburden on the illegal haul road and it should stay that way. I believe that Lehigh is intending to try and use this road to move overburden to the Stevens Creek Quarry in the future from the New Lehigh Quarry they intend to get a permit to mine for another 100 years. It also seems to me that the State Regional Water Quality Control Department has instructed Lehigh they cannot use the existing areas around the old quarry to dump overburden or any other rock because of the Reclamation Plan that should be taking place in the near future. The greenstone overburden can be put into the old quarry and I understand that there is a lack of fill for the old quarry when they get ready to reclaim it someone should check on this and be prepared to comment at the meeting and tell the public the truth. Lehigh will not tell the truth about how much more mining of the old quarry is left and I have to ask why? It seems there are many tiny areas that have also been cleared already by Lehigh and this is to make ready for new mine. The 63 acres asked for under the New Amendment to the Reclamation Plan will be the start of the New Quarry area and it will eventually have land added to mine this is the way quarries get started. I have attached an old drawing that I have from the EPA Super Fund Site investigation that was done in 2012 which I requested it shows that the EPA considered the lower area below the existing old quarry as the South Quarry at that time there was no Lehigh South Quarry. It should be noticed next to the suspected South Quarry boundary is the 63 acres it would seem reasonable for the public to suspect that the 63 acres and the illegal haul road will be used to run rock overburden to the Steven Creek Quarry to process and sell or store. If this takes place the public will not be able to live in Cupertino, the Silicon Valley and SF Bay area there will be great amounts of pollution released into the Air, Water and on to the Soil. I ask that the SCC Committee and the Board consider the health and safety of the people that live here.

. The existing Plant Quarry Road (5.4 acres of existing disturbed area); (4.2 acres of existing disturbed area);

Comment: This existing Plant Quarry Road was also built without a permit of any kind this needs to be recorded, mentioned and an application for a permit submitted. The road does not have to be added to the New Amended Reclamation plan it has operated there for decades without being added and there really is no need to add it. It seems strange to me that this existing Plant Quarry Road should have been part of the initial Reclamation plan because it is so close to the Lehigh Cement Plant area. The Figure 2 drawing seems misleading this needs to be looked into Lehigh does not need all of the land they are trying to add to the New Amended Reclamation Plan just the road. This road may never have to be reclaimed at all because the land needs to have roads of some kind for Fire Department access in case of a forest fire and PG & E needs a road in order to get to their lines if repair is needed.

. Existing maintenance roads located west of Steven Creek Quarry (4.2) acres of existing disturbed area). Refer to Figure 2 drawing

Comment: This road has been built without a permit and has been in operation for decades this needs to be recorded, mentioned and a permit application applied for. This road does not need to be added to the New Amended Reclamation Plan but if it is decided that it does it should only be the road not all the land that Lehigh is requesting. This road as mentioned above may never have to be reclaimed at all because the land needs to have roads of some kind for Fire Department access in case of a forest fire and PG & E needs a road in order to get to their lines if repair is needed.

Lehigh mentions in the last paragraph that the resulting reclamation plan boundary will encompass 1,301.6 acres. Note: Lehigh's now has 1,238.6 acres adding 63 more acres is not necessary. Lehigh goes on to mention that the Minor Amendment will not expand the area in which mineral deposits are harvested or otherwise expand or change any aspect of the existing surface mining operations. See Figure 1, "Utility Road Footprint and Boundary Adjustment," and Figure 2, "Overall Reclamation plan Amendment Boundary Adjustment," for a map of these areas. My question here is how can anyone trust Lehigh after the problems with the illegal haul road has caused. I believe it is time that Lehigh paid a fine for implementing roads without permits or with any other wrong doing so as to make it known that it is not going to be tolerated. Lehigh Hanson Cement and Quarry have a long history of violations with the Air, Water and Soil their disregard for authority should not be tolerated and they are not good citizens as they pretend to regard themselves by any means so let us punish those who will not comply. I have reported them so many times for their cement plant pollution, quarry and land use violations with the agencies that are supposed to protect the public. The Bay Area Air Quality Management District has ignored the public and will not return calls and will not even send out the complaint copy information and the findings this should not be tolerated. I finally received two complaint forms after complaining to the BAAQMD after the fact and it stated they could not reach me and left a message this is not true. The complaint I called in was noted as unsubstantiated nothing happening of course this is true it was after the incident which was on a week end. The BAAQMD only has an answering service on weekends and the inspectors do not work on the weekends either. I have requested a better system of doing business but the BAAQMD disregards me suggestions or requests. I contacted the Air Resource Board that oversees all of the districts and asked for an investigation and I have yet to receive information and my copy of the report I think it is time Santa Clara County was informed about the real story behind Lehigh and this is just some of the problems.

1.2.1 Utility Road Area – it states in the last sentence that the utility road will continue to be used only for intermittent light-duty vehicle access and utility company access (i.e., road use will revert to historical uses).

Comment: Lehigh should not be allowed to use this road for any reason and only the P G & E and the Fire Department should be allowed to use this road. There is also no need to add this road to the New Amended Reclamation Plan because there will not be a need to have it reclaimed. There needs to be a road or maybe 2 roads on the site not only for P G & E and the Fire Department but if in the future Lehigh's property is sold to allow housing and also if the State or Federal Government wants to perform an eminent domain retrieval of the property in order to set it up to use the land for a State or Federal Park. I must add here I am more in favor of a State or Federal Park. The Lehigh Hanson Cement and Quarry and the Stevens Creek Quarry land could be also used to solve the housing problems that the City of Cupertino and any adjoining city has there just is not enough land to build houses and the people do not want the City to allow for twenty story apartments to be built. I would please ask that Santa Clara County, City of Cupertino, State of California and the US Federal Government look into these possibilities of land use and save the beautiful land for future generations to come once Lehigh destroys 30 thousand trees and 600 acres to put in a new quarry the land will never be restored but destroyed. I have a much more serious threat to divulge the great possibility that the Lehigh Hanson Cement and Quarry/Heidelberg Cement Group will usher in the next major earth quake the San Andres Fault Line and other Faults are all around the area that Lehigh wants to use for a new quarry it will be a great disaster. I will add here no one knows for sure if Lehigh's new mine will not promote the next major earth quake in California and the whole state is in danger please Santa Clara County before you allow a new quarry to be mined for another 100 years to think of the lives that will be lost.

1.2.2 Plant Quarry Road – **Comment:** This road needs a permit and Lehigh never applied for one please see that they do. The Plant Quarry Road was never included in the Reclamation Plan all of these years and does not need to be included now under the New Amended Reclamation Plan because it will never be reclaimed what is Lehigh and Santa Clara County thinking? They are saying themselves that this boundary change will not involve any new reclamation closure requirements. When the road segment is no longer needed to support active mining operations, it will remain in place to provide general site access or to continue serving the cement plant, a separately permitted industrial use that is not subject to SMARA. Note: What they are saying is that they will not directly apply for a new permit to mine and they will use the road to support the mine and the cement plant process. I will mention that the public is against any new mine and against the continued cement plant processing due to the strong pollution coming from the cement plant that we the public are subjected to 24/7 and this needs to end. The Bay Area Air Quality Management District is not doing their job in controlling the emissions coming from the Cement Plant and the Quarry they are looking the other way and I have complained and asked the Air Resource Board who is in charge of overseeing all of the Air Districts in California to conduct an investigation into the performance of the BAAQMD and so far they have been reluctant to do so and it seems every time I call to ask for this report I am put off with no real explanation. I ask that Santa Clara County look into this matter ASAP this matter is urgent.

1.2.3 Maintenance Roads – **Comment:** I will mention again that these roads need permits Lehigh should apply for these permits and the road does not have to be part of the New Amended Reclamation Plan because they do not have to be reclaimed. I would like to know what Santa Clara County is thinking on this matter except that Lehigh wants to include this area for their own use and start their next mine please do not let them do this.

2. SITE DESCRIPTION

2.1 Location, Size, and Legal Description – **Comment:** Lehigh mentions the assessor's parcels that are vested what about the parcels that are not vested it seems in the future if Lehigh wants to mine a new quarry they will have to get a use permit from Santa Clara County to use that land. I ask that Lehigh not be given a use permit to mine land that is not vested in order to protect the land from this mining disaster. I also request that vested or non-vested property not be used at all for mining use not new quarry.

2.2 Vested Rights and Approved Reclamation Plans – **Comment:** Lehigh does not need a New Amended Reclamation Plan the roads should not justify more land to fall under the existing Reclamation Plan because Lehigh has been using them all these years without the need of a Reclamation Plan. The roads just need permits initially before they were built but Lehigh did not apply for a permit for the existing roads just as they did not apply for a permit with the illegal haul road they just built it without permission. The issue is not that there needs to be a new Amended Reclamation Plan to add 63 acres of land it is to justify these roads do not make justifying these roads a reason to provide Lehigh with more land under a New Amended Reclamation Plan this is just an excuse to gain more land to mine. The public I will mention again is strongly against Lehigh mining a new pit and Santa Clara County should consider the wishes of the people not just gaining sales tax and property tax revenue. I unfortunately do not trust the Lehigh Hanson Company how can this New Amended Reclamation Plan not intensify existing vested mining-related operations at the site as they are stating it most assuredly does. The point is that if Santa Clara County gives them a New Amended Reclamation Plan for 63 acres or also gives them the use of the illegal haul road they can use what they please and no one can stop them because Santa Clara County authorized it by adding it to the New Amended Reclamation Plan. I ask Santa Clara County Board and Santa Clara County Committee not to allow this to happen.

2.3 Planning Boundaries – **Comment:** This is no Minor Amendment that Lehigh would like us all to believe. The land 63 acres and the illegal haul road are not part of the existing Reclamation Plan and never was why all of a sudden there is a need to add it with a New Amended Reclamation Plan? If the area is vested and is going to be added because of the roads then Lehigh seems now to think that they need a New Amended Reclamation Plan due to the fact that later Lehigh will apply for a land use permit to mine a new quarry and add 63 acres and more. It seems that Lehigh Hanson Company can do whatever they want with the land they own and Santa Clara County and the State Mining and Reclamation Agency will allow the destruction the land which will never be reclaimed to the beautiful natural state that it was in the beginning. I have to ask what in the world is happening to our world seems no one cares about destroying virgin land with mining the destruction of 30 thousand trees and 600 acres is no big deal, after all once we pull out all of the Limestone we can just put in some dirt and

grass and cover up the damage this should do the trick wrong. This Limestone is Historical and is the largest pure limestone rock it can never be brought back seems a terrible shame that we now in our day and age seem to overlook such beauty.

I have to ask the State Mining and Reclamation Agency where were they all this years no one was watching to see what roads Lehigh was building or even cared until now. It states that SMARA defines "mined lands" to include appurtenant roads. Reference 2.3 Planning Boundaries. I am not sure this is true and if it is than they sure were not doing their job and what about the illegal haul road seems again SMARA was not doing their job and I suppose Santa Clara County also dropped the ball.

Lehigh Hanson Cement and Quarry former Lehigh Southwest Cement and Quarry former Permanente Cement and Quarry has been around for over 100 years mining their Limestone Quarry and processing cement polluting the Silicon Valley and the SF Bay area isn't that enough? The people men, women and children do not want to be subjected to any more terrible pollution and it is time we were included in determining if we want a New Lehigh Mine right next door to our homes. There has to be some way to stop this catastrophe from happening before it is too late.

2.4 Relationship of This Amendment to Approved Reclamation Plan – **Comment:** Lehigh states that SMARA recognizes that reclamation plans may need to be amended as mining progresses. In general, the 2012 reclamation plan defined the existing site conditions and the specification for reclamation (e.g., erosion control) that continues to apply to the plan for reclamation proposed in this amendment. Table of Approved Plan Subjects and Utility Road Amendments," provides relevant compliance elements of the approved reclamation plan and the changes provided n this amendment.

Table 1 LIST OF APPROVED PLAN SUBJECTS AND UTILITY ROAD AMENDMENTS – Under Approved Plan Subjects General Plan Information – Utility Road Amendment – States No Changes to approved plan – **Comment:** is not true Lehigh was moving supposed Greenstone Rock which was in reality overburden to Steven Creek Quarry for processing and sale on the illegal PG & E haul road and the road was expanded in order to accommodate Lehigh. Note: Lehigh has violated Permitted Mineral Products, Production Amount (Annual/Gross), End of Date of Operations, Estimated Final Reclamation Date and End Use.

Lehigh did not have a permit to move this so called Greenstone Rock overburden they had I understand in the past processed their own rock and still have the equipment to do so the question has been why are they moving it to the Steven Creek Quarry for processing? I believe that the State Regional Water Quality Control Enforcement Division told them they had to move this rock but of course no one will admit that this is what happened. The Production Amount (Annual/Gross) it seems that no one with Lehigh can tell us how much supposed Greenstone Rock overburden is left to move to the Steven Creek Quarry all I am told by a representative is a lot. End Date of Operations again no one with Lehigh or Santa Clara County can tell the public how much more mining will take place why not? Estimated Final Reclamation Date again no one knows this should be stated and recorded. End Use – I wonder after all of the mining and pollution released when they are through what could the property ever be used for I suspect nothing it will be beyond use due to the contamination from the Lehigh Cement plant and mine.

Boundaries, Slopes, Grading – Lehigh has always had problems with all of this and still does my question here is where is SMARA and Santa Clara County with fines imposed it seems they are untouchable to any real enforcement and no one can see the real damage done. The paperwork states No Change to the existing Reclamation Plan why do they think there are not changes?

Erosion – Best Management Practices and Ponds – **Comment:** The ponds at the Lehigh Cement and Quarry were never lined or even cleaned and even now there is a question as to what exactly is being done about the Air, Water and Soil pollution. The New Lehigh Wastewater Treatment Plant and the smaller treatment unit in the north may not be doing the job everyone was thinking they would do and to what level is the selenium being treated to, not down to zero pollution. It seems no one really knows what is being treated and how much pollution is not being treated and going down the Permanente Creek and down to the aquifer below. The aquifer is polluted and I believe that Lehigh and the Steven Creek Quarry are responsible for this pollution. I also believe that Lehigh is trying to extract the pollution from the Quarry with extraction wells and pull the water up to have it cleaned by the New Lehigh Wastewater Treatment Plant without any one knowing about it. There is also water coming into the quarry from the water table/aquifer below and pollution is allowed to seep from the aquifer which is polluted. The ponds are releasing also releasing polluted water into the quarry and all of this is supposed to be extracted up from extraction wells and piped over to the Lehigh Wastewater Treatment Plant. This water is then treated not down to zero pollution levels and released into the Permanente Creek and then flows down to the SF Bay. The real irony of the matter is that the Permanente Creek and the Steven Creek are still releasing this water down into the water-table/aquifer below and the cycle goes on until I suppose somehow the water table/aquifer is tested and the pollution is diluted. That is what they are trying to do but it will not work until the Steven Creek Quarry stops polluting the Stevens Creek Reservoir that they are polluting with water from the recycled concrete area on the site. I have complained and complained to Santa Clara County, State Regional Water Quality Control Board, Santa Clara Valley Water District and the EPA and still I wait to see a report from the SRWQCB that will report on the pollution and stop Stevens Creek Quarry from any further pollution. There are all kinds of pollution seeping into the Lehigh quarry and it seems no one with Santa Clara Valley Water District, Santa Clara County, City of Cupertino, and the State Regional Water Quality Control Investigations Division seems to care. Lehigh has been in noncompliance for years and continues to be the Steven Creek Quarry was also called the bathtub ring by the agencies and so I decided to rename it the toilet bowl ring because they are using it as their own personal toilet this all needs to end.

Stream and Wetland Protection – **Comment:** There have been many violations stated in many reports with the agencies and it seems all Lehigh has had to do is try and work to take care of the damage which is still a real problem if there are fines imposed they just pay off the agencies and go off and pollute again and they look at these fines as a form of doing business. Stockpiles – There are stockpiles of so called green rock overburden that has groundwater/rainwater running over it at Lehigh and the Stevens Creek Quarry and no one is testing the pollution from this rock that is going into the ponds which are polluted. This rock was being moved to the Steven Creek Quarry on an illegal haul road that had been used by the PG & E and Lehigh decided to widen this road and use it for their own use. The business that

Lehigh and SCQ wish to undertake is not legal and Lehigh should not be transporting any kind of rock or overburden to SCQ.

Soil/Overburden Stockpile Management – **Comment:** Lehigh needs to tell the public how they are storing the Petroleum Coke stockpiled at the facility, they receive fuel for their kiln in the past they have failed to have it delivered correctly and were storing it in on the ground and with the front side open so now there needs to be an investigation done on how they receive all of their mixes and fuels they use to make cement and run their operation, where and how do they store this material? The talk about BMPs – Best Management Practices well I do not believe that Lehigh uses BMPs this should also be looked into continually to make sure the public is protected. When we talk about the Approved Plan Subjects and Lehigh comes back with No Changes to approved plan I have to wonder because things have changed and continue to change at Lehigh and not for the good. They are not listing important changes made to the Lehigh Cement Plant and Quarry and also the Lehigh Wastewater Treatment Plant and they need to.

The illegal haul road has made many changes and if they want to add it to the New Revised Reclamation Plan they need to state what the changes are instead they state there is no changes to approved plan what will Santa Clara County do about this?

Revegetation – **Comment:** The real issue is will Lehigh have enough land fill, soil or any kind of rock for their existing quarry when the time comes for the current Reclamation Plan. Santa Clara County and the State Mining Board need to make sure they do. The way things are the land will never be the same and no matter how much Lehigh and Santa Clara County try and cover up the destruction it will be evident to everyone that they destroyed this property and the public will never see it restored.

3 Description of Reclamation Activities – It is stated that many of the same actions and activities provided in the approved plan would be applied to the approximately 63-acre project area. A summary of the reclamation activities are provided in the following subsections.

Comment: This all seems unnecessary if the road will not be used by Lehigh to transport rock to the Steven Creek Quarry their trucks are much heavier than the PG & E trucks. The green rock overburden should not be allowed to be moved under any circumstances to the Steven Creek Quarry.

3.1 Slope Stabilization – Stantec performed a geotechnical evaluation of the slop stability of the typical cut and fill slopes used for the utility road (see Appendix B, "Slope Stability Evaluation"). Stantec selected a cross section that has greater cut and fill heights and steeper cut and fill slopes than other sections of the road and therefore provided a worst-case assessment of the road stability. Stantec concluded that the road cuts appear to be stable with minor erosion.

Comment: There is also mention of seismic events and that some sloughing will occur. It mentions that there is no infrastructure or any sort of facility below the road that can be impacted by potential slope movements I have to wonder what about the trucks on the road if the road is unstable? The road is dirt and gravel and there will be erosion so far Lehigh has been lacking in taking care of the roads they have and the land they own so what makes anyone think they will maintain this road in any way.

3.2 Storm water and Erosion Control – The SWPPP includes best management practices (BMPs) such as the use of straw wattles, drainage channels, swales, silt fencing, revegetation, monitoring, and maintenance.

Comment: I have to ask the question what was going on with the PG & E road all these years it seems strange that they never needed all of this work performed on this road why is that. I think we need to remember that this land belongs to Lehigh Hanson Company and no one is wondering all this time why PG & E Company did not think the road needed widening or rebuilding destroying 50 some trees without any permit was this all necessary? I believe all of this work effort is to promote use of this road to fill the need to run overburden over to the Stevens Creek Quarry and this is especially true because Lehigh is now trying to find out how they can submit paperwork to support a new quarry. They contacted Santa Clara County planning to inquire about submitting a Master Reclamation Plan Amendment to add a new quarry which I believe to be totally illegal. The public will not go along with the use of this road and they will not tolerate a new quarry.

3.3 Revegetation – Revegetation consists of the general hydroseeding mix listed in Table 4 of the approved reclamation plan. Lehigh states that this seed mix has been applied to exposed areas on either side of the utility road.

Comment: There seems to be a lot of this hydroseeding planting regarding revegetation of the area that has been damaged by the Lehigh Hanson Company with no concern about the trees destroyed and the animals displaced and killed by their illegal road expansion to the PG & E Road. This road will be in existence continually by the PG & E and the Fire Department who need to use it for their use not to accommodate mining of the new pit. Lehigh should not be allowed to use or travel on this road in order to transport green rock/overburden to the Stevens Creek Quarry and there does not need to be a reclamation process with this road of any kind. Giving Lehigh Hanson Company this road and the 63 acres they are requesting for the New Reclamation Plan or the Major Reclamation Plan they are now asking Santa Clara County to address is wrong. The public wants to know how in the world, can Lehigh Hanson Company continue to destroy the land that we hold so dear it is a crying shame, and all those who support this should be truly ashamed of themselves. The land will never be reclaimed back to its natural state for all to enjoy how can anyone replace the limestone they are destroying?

3.4 Monitoring – Stormwater and erosion-control monitoring and maintenance will be consistent with the approved reclamation plan and approved SWPPP.

Comment: I do believe it is time we all looked at Lehigh Southwest Cement and Quarry now called Lehigh Hanson Cement and Quarry's past track record poor, poor, poor no one cared and no one monitored the site for 100 years and counting. It is still an ongoing problem and it seems that Lehigh can get away with an illegal haul road building that Santa Clara County allowed it, knew about for 3 months and waited till the road was finished to inform them to stop using the road. How can anyone feel that any real monitoring by the Santa Clara County or the agencies ever can be accomplished. There have been many pictures taken by Santa Clara County and the State Regional Water Quality Control Division about the lack of monitoring the Lehigh Hanson Cement and Quarry site violations are many and why

would the public now think that there will be any real monitoring of the site. The cement plant is also out of compliance and continues to be a pollution problem with no real enforcement.

4. FINANCIAL ASSURANCE- Permanente Quarry has an existing financial assurance posted with Santa Clara County and the California Division of Mine Reclamation in the amount of \$54,657,484 dollars. The reclamation plan amendment will result in an additional 63 acres of surfaces. The utility road, Plant Quarry Road and additional maintenance roads will remain after the site is reclaimed.

The County reviews financial assurances annually. Financial assurances are adjusted, if necessary, to reflect changes in the estimated cost reclamation activities and lands reclaimed the previous year.

Comment: How can Santa Clara County estimate this amount of money will be enough when knowing the amount of pollution that is up at the Lehigh Hanson Cement and Quarry, the air, soil and water is highly polluted and has been for over 100 years and counting. The pollution coming from the Lehigh Hanson Cement plant is still polluting the Silicon Valley and the SF Bay Area and this must stop now in order to protect the public from any further harm. The days of living near a Lehigh Hanson Cement and Quarry have ended the public cannot coexist and should not be next to this terrible polluter. The land will never be reclaimed to its natural use and if it can be used for housing or a State or Federal Park is up to the Environmental Protection Agency to determine.

Stantec Closure – This report has been prepared for Lehigh Hanson to provide a conceptual evaluation of the recent improvements to the existing utility road based on site observations and provided data. Future studies are expected to verify the assumed conditions, and this should be confirmed prior to the commencement of any construction activities.

Comment: Lehigh Hanson Company has taken it upon themselves to so call improve this illegal haul road for their own use without any permission or permit from Santa Clara County and the PG & E Company who had been using the road and they did not need to have the road improved. They also have two other roads the Maintenance Road and Plant Quarry Road also built without permits or permission they do not need to be reclaimed and asking for 63 acres in order to include them is not necessary. Lehigh has no right to ask for 63 more acres of land to reclaim. Lehigh is now discussing a Major Reclamation Amendment with Santa Clara County to include a new mine this is absolutely wrong as I have mentioned earlier in my paperwork. This matter is just a prelude to Lehigh Hanson Company to start to mine a new Lehigh Hanson Quarry and so this road will allow Lehigh to move between the three quarries without Santa Clara County or the California State Mining Board's continually observing them to see if they are operating legally. The question here is why is the Plant Quarry Road, and the Maintenance Roads been allowed to operated without a permit? This is all about a new mine that Lehigh wants to mine with no concern about the public who must suffer from their pollution.

PLANNED BOUNDARIES – It states that SMARA defines "mined lands" to include appurtenant roads. Also SMARA provides that a reclamation plan must identify mine-related access roads and if they will be reclaimed at the end of the mining or remain for post mining use. Lehigh has stated that the Minor Amendment implements these requirements by incorporating the existing utility road, Plant Quarry Road, and Maintenance roads into the reclamation plan boundary.

Comment: - State Mining Board and Santa Clara County seemed to have overlooked their responsibility in monitoring Lehigh why was the Plant Quarry Road and the Maintenance Roads left out of the original Reclamation Plan? Now Lehigh Hanson Company wants to add them along with this illegal haul road/utility road seems to me the overlook does not matter at all to anyone except now they want 63 acres to cover maintenance roads besides the 1.3 acres for the illegal haul road/utility road and the public must say NO! NO! To a new quarry mine NO not ever. The application for a new quarry needs to stand on its own and after that if approved Lehigh will need to submit a New Reclamation Plan. There also needs to be an EIR – Environmental Impact Report, Geological Testing to include seismic possibilities.

I will not continue further with Lehigh Hanson's New Amended Reclamation Plan seems now that there may be another Major Reclamation Plan in the works it seems that there is no end to the treachery that Lehigh will stoop to get what they want. The public needs to be informed about a new quarry application or a Major Reclamation Plan Amendment and provide the paperwork and time to comment.

Please read my paperwork over and get back to me.

Thanks,

Cathy Helgersen