



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

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Item #6
9:30 a.m.
July 14, 2022

STAFF REPORT

TO: Planning Commission

FROM: Mary Darby, Community Development Director
Eric Porter, Associate Planner

DATE: July 14, 2022

RE: **Point Lakeview Mine, Clearlake Lava Extension** - Extension of Use Permit (UPM 20-01) of Use Permit (UP 00-06) and a Categorical Exemption to CEQA (CE 22-47)

Supervisor Districts 1 and 5

ATTACHMENTS:

1. Vicinity Map
2. Submitted Material and Applicable Correspondence
3. Original Conditions of Approval for UP 00-06
4. Revised Conditions UPM 20-01
5. Agency Comments

I. BACKGROUND

The following events occurred leading to this request for a mine extension:

- 1989 – Use Permit UP 89-09 was approved by Lake County for a new mine, called the Point Lakeview mine.
- February 8, 2000 – Use Permit 00-06 was submitted to Lake County for a mine extension.
- The extension was approved in summer 2000 through UP 00-06 and was appealed. The Board of Supervisors denied the appeal, thereby validating the year 2000 use permit, and the mine was extended to April 2021 based on the appeal hearing date.
- February 3, 2020 – UPM 20-01 was submitted to the County.
- June 30, 2021 – Owner Don Van Pelt sent a letter to Tracy Cline specifying the events that had occurred regarding the mine extension. Mr. Van Pelt asserts that because an appeal was denied by the Board of Supervisors in April 2001, the use permit extension from year 2000 was valid until April

2021. Director Darby accepted this date as the official start date of the 2000 extension, and the use permit is valid until April 17, 2021.

- The extension application was filed prior to April 17, 2021, the expiration date for the mine use permit.
- A Notice of Exemption (NOE) was prepared and posted with the County Clerk's office. This notice however was not sent to the State Clearinghouse, and there was no evidence that the extension had been formally granted by the County. This was confirmed by Eric Porter on April 28, 2022 by searching the OPR website for Lake County Notices of Exemption.
- No formal Notice of Extension was prepared, and no signed conditions of approval are in the file or in the log book for Conditions of Approval.
- A refund for the extension was issued on March 11, 2020 in the amount of \$5,849.22.

Staff is recommending **approval of a twenty-year extension of UP 00-06** through file no. **UPM 20-01**.

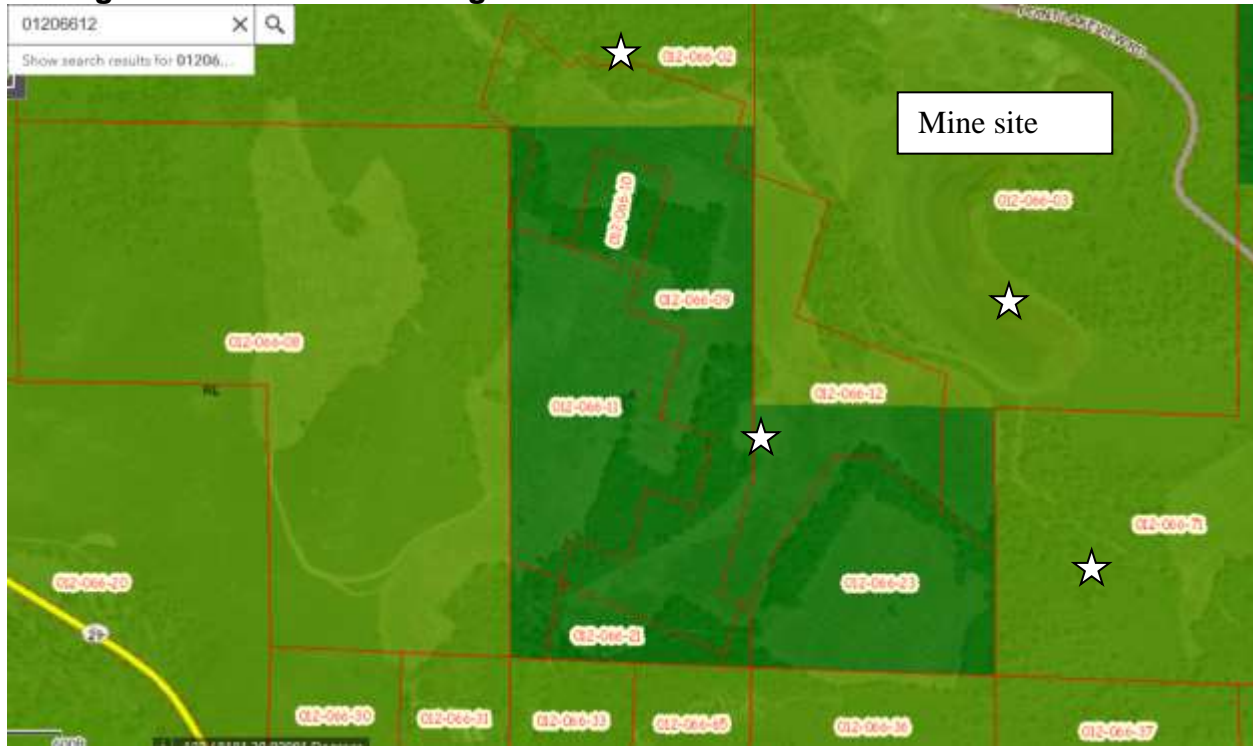
II. PROJECT DESCRIPTION

<u>Owner:</u>	Don Van Pelt
<u>Applicant:</u>	Clearlake Lava, LLC
<u>Consultant:</u>	Richard Knoll
<u>Location:</u>	13329 Point Lakeview Road, Lower Lake, CA (primary site)
<u>A.P.N.s:</u>	012-066-02, 03, 12 and 71
<u>Parcel Sizes:</u>	APN 02: 221.04 acres APN 03: 253.57 acres (primary site) APN 12: 23.48 acres APN 71: 64.15 acres
<u>General Plan:</u>	A and RL: Agriculture – Rural Land
<u>Zoning:</u>	“A-RL-SC”: Agriculture – Rural Land – Scenic Combining
<u>Flood Zone:</u>	D (undetermined) and X
<u>Existing Uses and Improvements:</u>	The project site is developed with a quarry.
<u>Topography:</u>	Generally less than 10% (lot 12) at the mine site.
<u>Water Supply:</u>	Well
<u>Sewage Disposal:</u>	Septic
<u>Fire Protection:</u>	CalFire
<u>Vegetation:</u>	Oaks, shrubs and native grass

Surrounding Zoning and Land Uses

- North, South, East and West: RL and Ag-zoned land mostly containing agricultural uses / vacant land with lots ranging in size from 20+ acres to over 200 acres. Minimal dwellings in the vicinity.

Zoning of Site and Surrounding Area



Source: Lake County GIS Mapping

III. PROJECT ANALYSIS

General Plan Conformance

The Lake County General Plan designation for the portion of the site where the mine activity is occurring is Agriculture and Rural Lands.

Agriculture

This land use category includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. One purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture. These lands are actively or potentially engaged in crop production, including horticulture, tree crops, row and field crops, and related activities. Wineries and the processing of local agricultural products such as pears and walnuts are encouraged within this designation. These lands also provide important groundwater recharge functions. As watershed lands, these lands function to collect precipitation and provide for important filtering of water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds.

Rural Lands

The purpose of this land use category is to allow rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. The category is appropriate for areas that are remote, or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields. These lands also provide important groundwater recharge functions. As watershed lands, these lands function to collect precipitation and provide for important filtering of water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds, and are located outside of Community Growth Boundaries.

Response: *The mine use on the site is not typically a use that is associated with either General Plan designation associated with the four lots involved in the mining operation, however the use was validated by the Board of Supervisors in 1989 through the original use permit, UP 89-09, and again in year 2001 through an appeal of use permit UP 00-06 when the appeal was denied by the Board of Supervisors. The use is therefore established, and no expansion of use is proposed, thereby enabling a categorical exemption to CEQA for this extension.*

The General Plan has several goals and policies that apply to this request as follows.

Goal LU-2: To clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses (i.e., high density residential, high density commercial and industrial) from areas where rural or resource use should be emphasized.

Policy LU-3.2 Rural Development

The County shall consider rural development intensity in rural areas located outside of Community Growth Boundaries according to its ability to support water and waste disposal needs, access, slope characteristics, protection of sensitive natural resources and the site's susceptibility to natural hazards.

Response: *The combined acreage under ownership of the owner / applicant is well over 550 acres. The portion of the site containing the mine has a slope of under 10%. The site is fully self-sustaining regarding water and septic. The site is accessed by Point Lakeview Drive, a paved County-maintained road. The site's slope reduces the likelihood that natural hazards such as landslides would occur, since the slope is under 10% for most of the site.*

Goal LU-5: To designate adequate land for, and promote development of, industrial uses to meet the present and future needs of Lake County residents for jobs and to maintain economic vitality.

Policy LU-5.1 Industrial Developments

The County shall encourage a wide range of industrial development activities in appropriate locations to promote economic development, employment opportunities, and provide a sound tax base.

Response: *The mining use that had been approved for the site in 1989 and again validated in year 2001 through an appeal to the Board of Supervisors of use permit UP 00-06 when the appeal was denied; these actions affirmed that the mine use is established. The mine provides employment to local workers, who in turn buy commodities from local establishments. The mine use aids the Lake County tax base by the provision of taxes that result from the mining activity.*

Policy LU-5.4 Compatibility with Surrounding Land Use

The County shall ensure that appropriate industrial/heavy commercial sites will not result in significant harmful impacts to adjacent land uses. In addition, sites should be designed to prevent the intrusion of incompatible uses into industrial areas. Infilling of existing industrial areas is highly desirable where feasible.

Response: *The mine use is established, and the use's validity was confirmed through the original 1989 approval, and reinforced in year 2001 by the denial of an appeal that was filed on the year 2000 extension to continue the mining use for twenty years.*

Policy LU-5.8 Industrial Uses Allowed on Resource Land

The County shall allow asphalt batch plants and similar processing facilities that are directly associated with the development of a resource to be located at the source of the resource under the following criteria:

- Any such site shall be developed under the use permit process.
- The use permit shall not permit any commercial or industrial uses that are not related to the processing of the resource.
- The entitlements shall incorporate feasible mitigation for identified significant impacts to surrounding land uses, the environment and Clear Lake watersheds so as protect air quality as well as surface and groundwater quality.

Response: *As previously stated, the mine was established through use permit UP 89-09, and was confirmed by use permit UP 00-06 by the Planning Commission and subsequent appeal that was denied by the Board of Supervisors in April 2001, effectively re-validating the mine use on the site. Mitigation measures were required, and no changes to the use are proposed. The mine is used to extract and process gravel and related products, and is related to this resource extraction and processing of the resource. The land is not designated as Resource Conservation in the General Plan, but provides resources through the extraction and processing of the extracted product.*

Goal LU-6, Economic Development: To maintain a healthy and diverse local economy that meets the present and future employment, shopping, recreational, and service needs of Lake County residents.

Response: *The use provides employment to local residents, who spend money on commodities found in local retail establishments.*

Lower Lake Area Plan Conformance

The Lower Lake Area Plan contains some policies and objectives that encourage certain industrial uses. The following policies and objectives apply to this existing project:

Objective 3.6: To develop the mineral resources fund in the Lower Lake area to the long-term economic and environmental benefit of residents in the area.

Response: *The project was established in 1989 and has continued to operate since that date. The project employs local residents, who spend money in local retail establishments, which aids local economy.*

Objective 5.1b: Ample land uses shall be designated to accommodate projected growth rates in the Lower Lake area for the next 20 years. The land use plan map shall designate sufficient lands to accommodate a balance between various land use categories, including residential, commercial and industrial uses, subject to constraints such as environmental suitability, resource protection and the availability of adequate public services.

Policy 5.1b-1: A high priority should be given to providing service and employment opportunities locally in the Lower Lake area in order to boost economic development and reduce travel distances.

Response: *The project employs local residents, who spend money in local retail establishments, which aids local economy.*

Zoning Ordinance Conformance

Article 5 - "A" AGRICULTURAL DISTRICT

5.1 Purpose: To protect the County's agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture. The following regulations shall apply in all "A" districts.

Response: *Mines are not a named use in the "A" zoning district, however the Board of Supervisors had approved this project on appeal in year 2001, thereby validating the use at this location. No expansions to the use are proposed.*

Article 7 - "RL" RURAL LAND DISTRICT

7.1 Purpose: To provide for resource related and residential uses of the County's undeveloped lands that are remote and often characterized by steep topography, fire hazards, and limited access. The following regulations shall apply in all "RL" districts.

Response: Mines are not a named use in the “RL” zoning district, however the Board of Supervisors had approved this project on appeal in year 2001, thereby validating the use at this location. No expansions to the use or additional site disturbance are proposed.

Article 60, EXPIRATION, REVOCATION, OR MODIFICATION OF PERMITS AND REAPPLICATION

- (c) If prior to expiration of a permit, the applicant files a written application for extension, the period within which substantial physical construction or use commenced, may be extended one (1) year by order of the Planning Director, Zoning Administrator, Development Review Committee, Planning Commission, or Board of Supervisors, whichever granted the permit, at any time within ninety (90) days of the date of expiration. An application for such an extension shall be made on the prescribed form and shall be accompanied by any applicable fee as established by the Board of Supervisors.

Response: This extension application was submitted to Lake County Planning Department on February 3, 2020, prior to the expiration of extension file no. UP 00-06, which had a twenty year validity term. The site has been developed with the mine, which is actively used for gravel production. Because the site had been developed and no further expansion(s) have been requested, staff has made a findings that this extension application meets the criteria established in (c) above. The year 2000 use permit had been decided by the Lake County Planning Commission; therefore this extension can be decided by the Lake County Planning Commission.

IV. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of their actions. The proposed project has been determined to be eligible for an exemption from CEQA through a Class 2 Categorical Exemption (CEQA Guidelines Section 15301 since no ground disturbance, construction or other activities will occur as the result of this extension.

V. RECOMMENDATION

Staff recommends that the Planning Commission take the following actions pertaining to this request for a twenty year extension:

- A. Adopt Categorical Exemption, (CE 22-47) for Use Permit Extension, UPM 20-01 with the following findings:**
1. This time extension request is for an existing use permit to continue the use of the affected property as a mine that extracts and processes gravel and related products.
 2. No new construction or site disturbance is proposed or needed in conjunction with this extension request.

3. This project is consistent with CEQA Categorical Exemption requirements for a previously-approved project through a Class 1 Exemption; CEQA section 15301.
4. This project remains consistent with the Lake County General Plan, Lower Lake Area Plan and the applicable Lake County Zoning Ordinance sections.
5. There has been no changes to any applicable regulations which would create new significant environmental impacts.
6. This project has been previously evaluated for compliance with CEQA, and any potential adverse environmental impacts have already been mitigated.

B. Approve a twenty-year Extension of Time (UPM 20-01) for Use Permit (UP 00-06) to original Use Permit (UP 89-09) with the following findings:

1. That there have been no changes to the requirements to establish the uses proposed within the Point Lakeview mine between the time of original approval and the date of this extension.
2. That there have been no changes to the General Plan or to the Lower Lake Area Plan that would otherwise affect this extension in a manner that would create a non-conforming use.
3. That there have been no changes to the scope of the project between the original approval date and the date of this extension.
4. That the project is in substantial conformance with the originally-approved project under files no. UP 89-09 and UP 00-06.

VI. SAMPLE MOTIONS

Categorical Exemption

I move that the Lake County Planning Commission find that the **Use Permit Extension, UPM 20-01**, applied for by **Clearlake Lava** on property primarily located at **16125 and 13329 Point Lakeview Road, Lower Lake, further described as APNs: 012-066-02, 012-066-03, 012-066-12 and 012-066-71** is exempt from CEQA because it falls within Categorical Exemption section 15301 (file no. CE 22-47), based on the findings set forth in the Staff Report dated **July 9, 2022**.

Minor Use Permit Extension

I move that the Lake County Planning Commission find that the **Use Permit Extension, UPM 20-01**, applied for by **Clearlake Lava** on property primarily located at **16125 and 13329 Point Lakeview Road, Lower Lake, further described as APNs: 012-066-02, 012-066-03, 012-066-12 and 012-066-71** does meet the requirements of Articles 19, and 60.1(c) of the Lake County Zoning Ordinance, and that the Zoning Administrator has reviewed and considered the Categorical Exemption, CE 22-47, which was adopted for this project and the Use Permit extension, file number UPM 20-01, be granted, and shall extend the use permit UP 00-06 for a period of twenty years subject to the original and revised conditions (Attachments 3 and 4), and with the findings listed in the Staff Report dated **July 9, 2022**.

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission's decision, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Planning Commission's final determination.

Staff report approved by: _____
Mary Darby, Director