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AGENDA ITEM NO.: 4 (Action Item – Public Hearing)

**PLANNING COMMISSION
MEETING DATE:** May 26, 2021

SUBJECT: Amendment to Conditional Use Permit (CUP)
1978-09; amendment to Reclamation Plan 78-
02/Twin Mountain Rock Venture LLC.

EXECUTIVE SUMMARY

The applicant has applied for amendments to Conditional Use Permit (CUP)1978-09 and Mining Reclamation Plan 78-02 (Plan). The amendments are for a cinder mine located off Highway 395 south of Coso Junction. The proposed changes - include updating the mine's current plans for the completion of mining in the main quarry and extending the mining operations to the northeast away from US 395, in order to utilize the on-site cinder reserves. Approximately 10,714,286 cubic yards of material will be extracted from the site over a 100-year time span. The existing and proposed mining activities are on privately owned property of approximately 297 acres in Inyo County with a Tax Assessor Parcel Number 037-090-11.

PROJECT INFORMATION

Supervisory District: 5

Applicants: Twin Mountain Rock Venture L.L.C.

Property Owner: Angelus Block Company Inc.

Address/Community: The project (mine) site is located approximately 12 miles south of Olancho, on the east side of US 395, near Coso Junction in Inyo County, California. The mine is located within sections 30 and 31, Township 22S North, Range 38E, Mount Diablo Meridian. The

Site is accessed from US 395, east onto Cider Road approximately 1 mile to the mining site.

A.P.N.: 037-090-11

General Plan: Open Space and Recreation (OSR)

Zoning: Open Space (OS)

Surrounding Land Use:

Location:	Use:	Gen. Plan Designation	Zoning
Site	Mine	Open Space and Recreation (OSR)	Open Space with a 40 Acre minimum (OS-40)
North	Vacant Public Land	State And Federal Land (SFL)	Open Space with a 40 Acre minimum (OS-40)
East	Vacant Public Land	State And Federal Land (SFL)	Open Space with a 40 Acre minimum (OS-40)
South	Vacant Public Land	State And Federal Land (SFL)	Open Space with a 40 Acre minimum (OS-40)
West	Vacant Public Land	State And Federal Land (SFL)	Open Space with a 40 Acre minimum (OS-40)

Recommended Action:

- 1.) Adopt the Mitigated Negative Declaration of Environmental Impact pursuant to the California Environmental Quality Act, prepared for the amendment to Conditional Use Permit 1978-09; and amendment to Reclamation Plan 78-02/Twin Mountain Rock Venture LLC
- 2.) Make certain Findings with respect to, and approve, the amendment to Conditional Use Permit 1978-09; and amendment to Reclamation Plan 78-02/Twin Mountain Rock Venture LLC.

Alternatives:

- 1.) Deny the amendment to Conditional Use Permit (CUP) 1978-09; and amendment to Reclamation Plan 78-02/Twin Mountain Rock Venture LLC, thereby not allowing the applicant to amend its Reclamation Plan, or move forward with the proposed expansion.

2.) Continue the public hearing to a future date, providing specific direction to staff regarding what additional information and analysis is needed.

Project Planner:
STAFF ANALYSIS

Ryan Standridge, Associate Planner

Background and Overview

Project Description

The applicant has applied for amendments to CUP1978-09 and to the existing approved Plan. The proposed revised Plan will include updating the current plans for completing the mining in the main quarry and extending the mining operations into the northeast section of the parcel set away from US 395 in order to utilize on-site cinder reserves. The original approval was in 1979. At that time, the site consisted of a number of unpatented mine claims on federal lands under the jurisdiction of the Bureau of Land Management (BLM). In 2000 and 2007, two claims were issued patents with a total of 297 acres. This property now privately owned by Angus Black and has the APN 037-090-11. The parcel boundary is also considered the mine boundary.

Under the approved CUP mining is currently conducted within three approved phases and can continue for up to 100 years.

- Phase 1: is the main quarry of approximately 49 acres that can have active slopes as steep as 0.5 horizontal to 1 vertical (0.5H: 1V) and will be pushed down or backfilled with non-commercial material (cinder waste) to a reclaimed slope of no more than 1H: 1V with a maximum depth of 150 feet below ground surface and a variable pit floor.
- Phase 2: mining is in a small northwestern 8.5-acre area that extends to the main quarry. It is permitted for 1.5H: 1V slopes. Mining on the west side of the main quarry is below grade, and will remain behind natural ridging as well as an approximate 10-foot high berm that will block views from US 395.
- Phase 3: of mining relocates the shop north of the entrance gate and the overburden stockpile will be pushed down into the floor of the main quarry and will be used to backfill any overly steep slopes. The raw cinders underneath will be mined to about 150 feet below ground surface.

The proposed amendments will occur during Phase 4 and mining will be initiated in the northeast quarry area located on approximately 35.5 acres. The quarry will be setback a minimum of 50 feet from the project boundaries to the east and north, and approximately 100 feet from the base of the Red Hill Cinder Cone proper. Excavations are planned at 1H:1V to a depth of 150 feet.

Inyo County Code

Surface Mining and Land Reclamation in Inyo County is governed by Chapter 7.70 of the Inyo County Code which incorporates California's Surface Mining and Reclamation Act of 1975("SMARA"), Public Resource Code Section [PRC] 271 et seq. and California Code of Regulations Section 3500 et seq.) The County is the "lead agency" (ref. PRC Section 2728) with State Mining and Geology Board-certified surface mining and reclamation Ordinance (ref. PRC Section 2774.)

Planning Staff received a notice of incomplete reclamation plan from the California Department of Mine Reclamation (DMR), dated May 14, 2020, in response to the County's request for review of the Plan amendment (attachment 3). DMR staff commented on PRC Section 2772(c)(5) stating that the reclamation plan maps submitted did not include the information or address subsections (C) (D)(F) requirements with regard to mapping requirements (see attachment 3).

DMR staff also commented on the PRC Section 2773(a) and CCR Sections 3502(b)(3). These sections relate to site specific geotechnical and geologic analysis for final slopes and state that topography must be included with the submittal. The applicant resubmitted on January 29, 2021, with new maps, and slope stability reports both prepared by a licensed professional. County staff reviewed and determined the new submittal addresses the deficiencies and forwarded it to DMR. DMR issued a letter dated March 29, 2021 stating the Plan as re-submitted is complete and did not provide additional comments. The Plan as presented meets SMARA and Inyo County code requirements.

General Plan Consistency

The proposed project is consistent with the County General Plan designation of 'Open Space Recreation' (OSR) as the OSR designation allows for mining uses, with a CUP and accompanied by a reclamation plan approved by Inyo County. The County approved the original (CUP 78-09) on May 24, 1979 with mining and excavation restricted to the southern base of the Red Hill Cinder Cone and limited to approximately 116 acres within the overall 297-acre parcel. Also, Section 08.4.4 of the General Plan's Goals and Policies states: '*protect the current and future extraction of mineral resources that are important to the County's economy while minimizing impacts on the public and the environment*'. Twin Mountain Rock Venture LLC currently plays a significant role in the County's local production of red and black cinder rock. These materials are also screened to various sizes depending on product demand for landscaping, soil amendments, de-icing of roads, and are a component of cinder blocks for construction industries.

In addition to the General Plan land use designation, the County is also responsible for ensuring that all mining projects comply with the requirements of SMARA.

Zoning Ordinance Consistency

The proposed project is consistent with the County's zoning designation of Open Space (OS) as the OS designation allows mining uses, as a conditional use. These uses include mining and processing of natural resources, including cinder pits. The proposed amendment consists of expanding the existing pit that is a continued mining use.

ENVIRONMENTAL REVIEW

Staff prepared a Draft Mitigated Negative Declaration and Initial Study (ISMND) for the amendment to CUP 1978-09 and amendment to Plan 78-02 and circulated it for a 30-day review and comment period (Attachment 4). The review period closed on May 15, 2019. To date, the Planning Department has received no comments on the ISMND. The Initial Study identified a couple of potentially significant impacts to: air quality, and biological features. The applicant provided information addressing these potential impacts and mitigation measures were

developed to reduce the potential impacts to a level of insignificance and are included as conditions of approval for the project. These include:

Air Quality

The proposed project anticipates new disturbance of large particulate greater than 10 Microns, the applicant will follow best management practices and shall be subject to Great Basin Unified Air Pollution Control District (GBUAPCD) regulations regarding dust mitigation during operations and shall be required to obtain all necessary permits from GBUAPCD.

Biological

A biological technical report was prepared by Jericho Systems Inc. for the project (Attachment 5). No sensitive species were found during the 2018 or 2020 studies, however, suitable habitat was identified outside of the project area. In response to this, the applicant proposed installing a 100 ft. habitat buffer area between the suitable habitat area and the proposed expansion. This is also included as a condition of approval for the project.

TRIBAL CONSULTATION

Prior to the environmental review, consultation invitations were sent to the: Twenty Nine Palms Band of Mission Indians; Torres Martinez Desert Cahuilla Indians; Bishop Paiute Tribe; Fort Independence Indian Community of Paiutes; Big Pine Paiute Tribe of the Owens Valley; Timbisha Shoshone Tribe; and, the Lone Pine Paiute-Shoshone Tribe per Tribal requests.

None of the Tribes requested consultation.

NOTICING

Amendment to CUP 1978-09 and amendment to Plan 78-02 was noticed in the Inyo Register and sent to all the property owners with parcels within 300-feet of the project, within the required noticing period of ten days before the Planning Commission Hearing. No public comments have been received to date.

RECOMMENDATIONS

Planning Department staff recommends the approval of the Amendment to CUP 1978-09 and the amendment to Plan 78-02 with the following Findings and Conditions of Approval:

Findings:

Amendment to CUP 1978-09 and amendment to Plan 78-02

1. Based upon the Initial Study and all oral and written comments received, adopt the Mitigate Negative Declaration of Environmental Impact and certify that the provisions of the California Environmental Quality Act have been satisfied.

[Evidence: An ISMND were prepared and circulated for public review and comment pursuant to the provisions of the California Environmental Quality Act. The 30-day public comment period ended on May 15, 2019, the Planning Department received no comments on the ISMND and no additional

potentially significant environmental impacts from the proposed mining operation were determined in the course of the ISMND circulation. Based upon the environmental evaluation of the proposed project, the Planning Department finds that the project does not have the potential to create a significant adverse impact on flora or fauna; natural, scenic and historic resources; the local economy; public health, safety, and welfare. This constitutes a Negative Finding for the Mandatory Findings required by Section 15065 of the CEQA Guidelines.]

2. The proposed Amendments to CUP 1978-09 and Plan 78-02 is consistent with the Inyo County General Plan landuse designation of OSR.
[Evidence: The proposed project is consistent with the County General Plan designation of OSR as it allows for mining uses, under the approval of a CUP and a reclamation plan. Also, Section 08.4.4 of the General Plan Goals and Policies states: 'protect the current and future extraction of mineral resources that are important to the County's economy while minimizing impacts on the public and the environment'. Twin Mountain Rock Ventures L.L.C. mining currently plays a role in the County production of red and black cinder rock and sands crushed and screened to various sizes and colors depending on product demand. The materials are used for landscaping, soil amendment, de-icing of roads, and other uses.]
3. The proposed Amendment to CUP 1978-09 and amendment to Plan 78-02 is consistent with the Inyo County Zoning Ordinance, which permits "Mining Uses" as a conditional use in the OS zone.
[Evidence: The proposed project is consistent with the County zoning designation of OS as it allows for mining uses, with a CUP. These uses include the mining and processing of natural resources, including cinder pits. The proposed amendment consists of expanding the existing pit that is a continued mining use.]
4. The proposed amendment to CUP 1978-09 and amendment to Plan 78-02 is necessary or desirable.
[Evidence: General Plan Policy ED-4.1 states: 'Support the continued operation of existing mining activities within the County as well as new mining in appropriate areas'. This project is adding to an existing site and offers an essential service by providing materials used for landscaping, soil amendment, de-icing of roads, and other uses; therefore, this is a desirable use.]
5. The proposed amendments to CUP 1978-09 and Plan 78-02 are appropriately related to other uses and transportation and service facilities in the vicinity.
[Evidence: The proposed expansion is located on an existing site currently used for a cinder pit and all of its related uses. The project's projection of production will remain the same dependent on product demand; therefore, the

impact on transportation facilities will remain the same.]

6. The proposed Amendments to CUP 1978-09 and Plan 78-02 would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity or be materially detrimental to the public welfare.

[Evidence: The proposed expansion is approximately 12 miles away from the nearest town. No chemicals or chemical processing will be used on-site only crushing and screening. There will be no chemical waste or pollution from the mining operation. The applicant shall be subject to the requirements set by the GBUAPCD during the operation of the site for dust mitigation, and subject to Certified Unified Program Agency requirements specified by the Inyo County Environmental Health Department.]

7. Operating requirements necessitate the amendment to CUP 1978-09 and the amendment to Plan 78-02 located within the OS-40 zoning district.

[Evidence: The proposed amendment is for a substantial change to the mining area which makes this update necessary per the County's Surface Mining and Land Reclamation Ordinance.]

CONDITIONS OF APPROVAL

Term of Conditional Use permit

1. The term of the CUP shall not exceed 100 years from the date of approval, or no later than May 26, 2121. The total amount of usable cinder and waste material that can be removed from this pit is 10,714,286 cubic yards. If the 10,714,286 cubic yards are removed prior to the termination date, reclamation shall proceed within six months of it. The Planning Commission may grant an extension upon the application of additional amendments to the CUP and the reclamation plan. To assure continued operation, the above application should be received prior to the expiration date.

Term of Plan and Timing of Reclamation

2. The term of the reclamation plan shall not exceed fifteen years from the date of approval, or no later than May 26, 2036. The reclamation plan shall be updated for current SMARA requirements up to every 15-years. The Planning Commission may grant an extension upon the application of an additional amendment to the reclamation plan.. To assure continued operation, the above application should be received prior to the expiration date.

Interim Management Plan

3. Throughout the 100-year life of this project, the interim management plan shall be implemented during periods of "idle" operation. If zero production occurs for a period of five consecutive years, the reclamation plan shall be implemented immediately. Mining cannot occur until an amended reclamation plan is submitted and approved by the Inyo County Planning Commission.

Mapping

4. Twin Mountain Rock Venture L.L.C. shall provide the County with a contour

map with two-foot contours, due annually prior to the required yearly SMARA inspection or on the day of the inspection.

Conditions of Mitigated Negative Declaration

5. All conditions outlined in the current Mitigated Negative Declaration shall be included as conditions of approval for these amendments to CUP 1978-09 and Reclamation Plan 78-02.
6. The 100 foot habitat buffer shall be in place prior to any ground disturbance.

Conditions of Amendment to Conditional use permit 1978-09 and Reclamation Plan 78-02

7. All buildings shall be painted an earthen color in order to blend-in with the natural surroundings. The building permits shall not be finalized until buildings are painted in accordance with this condition.
8. All mining procedures and reclamation outlined in the Red Hill Quarry Reclamation plan revised January 2021 shall be recorded by the Planning department upon approval. The recorded copy shall be the official reclamation plan that both the lead agency and operator will follow.
9. The applicant shall submit a notarized letter to the Planning Department accepting responsibility for reclaiming the mined lands as conditioned by the Planning Commission.

Financial Assurances

10. Financial assurances in the sum of \$348,012.00 are required in the form of a surety bond, irrevocable letter of credit, cash or certificate of deposit. Government agencies may also use budget set asides, or pledge of revenue to post their financial assurances. Financial assurances shall be posted with the Inyo County Planning Department. Said assurances shall be made payable to the County of Inyo and the Director of the California Department of Conservation and the Bureau of Land Management (Required on patent land purchased from BLM).

Financial Assurance Recalculation

11. Financial assurances shall be recalculated each year in accordance with Section 2773. 1(a)(3) of SMARA and the Inyo County Code. This shall occur at the time of annual inspection.

Release of Financial Assurances

12. As required, as reclamation standards are achieved, the portion of financial assurances covering those areas of reclamation that are completed may be released. The remainder of financial assurances covering revegetation and monitoring shall not be released until the revegetation performance standards are met.

Compliance with County Code

13. The applicant/operator shall conform to all applicable provisions of Inyo County Code, , State laws and regulations, and Federal laws and regulations.

Hold Harmless

14. The applicant/operator shall defend, indemnify and hold harmless Inyo County agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul an approval of the County, its advisory agencies, its appeals board, or legislative body concerning CUP 1978-09 and Reclamation Plan 78-02. The County reserves the right to prepare its own defense.

ATTACHMENTS:

1. Vicinity Map
2. Reclamation Plan Maps
3. DMR Response
4. Mitigated Negative Declaration
5. Biological studies
6. Reclamation Plan