

OAKLAND CITY COUNCIL  
RESOLUTION No. 78486

FILED  
OFFICE OF THE CITY CLERK  
CITY OF OAKLAND  
C.M.S. 8001/03-3 11/12/03

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**RESOLUTION APPROVING THE APPLICATION OF THE DE SILVA GROUP LLC  
FOR A RECLAMATION PLAN AMENDMENT AND REVISED FINANCIAL  
ASSURANCES FOR THE LEONA QUARRY**

WHEREAS the Leona Quarry is an active surface mine operating in the City of Oakland pursuant to a reclamation plan approved in 1988; and

WHEREAS the current reclamation plan for the Quarry allows for the quarrying of 10 million cubic yards of material in addition to what has been quarried to date; and

WHEREAS the DeSilva Group LLC has sought and obtained permission from the City of Oakland to convert the Leona Quarry site to a residential community consisting of 423 homes (the Residential Project); and

WHEREAS the development of the Residential Project requires that the current mining operations cease and that the current reclamation plan be replaced by one that does not permit the extensive quarrying currently allowed and that requires that the site be left in a safe and stable condition compatible with the approved Residential Project; and

WHEREAS on February 17, 2004 the City Council adopted its Resolutions 78358 and 78359 making certain findings and certifying the Final Environmental Impact Report (the Final EIR) and Final Subsequent Environmental Impact Report (the Final SEIR) prepared for the Residential Project and imposing conditions of approval including conditions requiring the mitigation of environmental impacts of the Residential Project; and

WHEREAS Ordinance 12496 C.M.S. establishes the procedures to be followed in acting on a request to amend a reclamation plan; and

WHEREAS, in compliance with ordinance 12496, on April 7, 2004 the Planning Commission held a public hearing and recommended that the City Council adopt a resolution approving the Reclamation Plan Amendment and the Amended Financial Assurances, and

WHEREAS in further compliance with ordinance 12496, on April 20, 2004 the City Council held a duly noticed public hearing at which all interested members of the public were provided the opportunity to comment on the Reclamation Plan Amendment and Revised Financial Assurances; and

WHEREAS the environmental review for this project is set forth in the Final EIR prepared in September 2002 and the Final SEIR prepared in January 2004; and

WHEREAS, on February 17, 2004, the City Council certified the Final EIR as revised and supplemented by the Final SEIR; and

WHEREAS the City Council has reviewed the reclamation plan amendment and other information in the record and has determined that no additional environmental review of the Project is warranted because (1) the reclamation plan amendment and its potential environmental effects were fully studied in the Final EIR/Final SEIR; (2) there are no substantial changes proposed for the Project or in the surrounding circumstances that would require major revisions of the Final EIR/Final SEIR; and (3) there is no new information, which could not have been known when the Final EIR/Final SEIR was certified, indicating new or more severe environmental impacts, feasibility of mitigation measures previously found to be infeasible, or considerably different mitigation measures or alternatives the project proponents decline to adopt which would reduce significant impacts;

WHEREAS the City Council finds, for the reasons stated after each of the following findings, as follows:

- (1) That the Reclamation Plan complies with SMARA Sections 2772 and 2773, and any other applicable provisions.

*City staff has reviewed the Reclamation Plan Amendment and has found it to comply with SMARA. Moreover, the State Office of Mining Reclamation (OMR) – the expert California agency with authority over SMARA compliance and surface mining activities throughout the state and with specialized knowledge in mining and reclamation – has determined that the Reclamation Plan Amendment complies with SMARA.*

- (2) That the Reclamation Plan complies with applicable requirements of State regulations (CCR §3500 – 3505, and § 3700 –2313).

*City staff has reviewed the Reclamation Plan Amendment and found it to comply with SMARA's implementing regulations. Moreover, OMR – the expert California agency with specialized knowledge in mining and reclamation – has determined that the Reclamation Plan Amendment complies with SMARA's regulations.*

- (3) That the Reclamation Plan and potential use of reclaimed land pursuant to the plan are consistent with this Chapter, the City's General Plan and any applicable resource plan, element or an Approved Plan.

*The Reclamation Plan Amendment and the end use of the site are consistent with Chapter 17.102.220 of the City of Oakland's Zoning Code. The City Council previously found on February 17, 2004, that the overall Leona Quarry Residential Project is consistent with the City's General Plan.*

- (4) That the Reclamation Plan has been reviewed pursuant to CEQA and the City's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

*The Reclamation Plan Amendment has been reviewed in accordance with o CEQA, and all significant adverse impacts from reclamation of the surface mining operation are mitigated to the maximum extent feasible. The EIR for the Project expressly included approval of reclamation plan amendment as a component of the CEQA project under review. The City Council certified the Final EIR, as revised and supplemented by the Final Subsequent EIR on February 17, 2004.*

(5) That the land and/or resources such as water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography, and other resources, or that suitable off-site development will compensate for related disturbance to resource values.

*As already found by the City Council, reclamation activities outlined in the Reclamation Plan Amendment are compatible with the surrounding natural environment in that they will create a safe and stable area upon which immediate development may occur.*

(6) That the Reclamation Plan will restore the mined lands to a safe, stable and usable condition which is readily adaptable for alternate land uses consistent with the General Plan, and other City Approved Plans, policies, ordinances and regulations.

*The City Council on February 17, 2004, found that the reclamation measures are appropriate for the proposed end use for the site (consisting of a residential development project) and that the reclamation measures will "create safe and stable slopes adjacent to the proposed residential development." The City Council's findings specific to reclamation activities for the Project are attached as Attachment E to the attached Planning Commission staff report.*

(7) That a written response to the Sate Department of Conservation has been prepared, describing the disposition of major issues raised by that Department. Where the City's position is at variance with the recommendations and objections raised by the State Department of Conservation, said response shall address, in detail, why specific comments and suggestions were not accepted.

*Written responses to the State Department of Conservation cannot be prepared because the Department raised no issues with the Reclamation Plan Amendment, and the City's position is not at variance with the State Department of Conservation.*

RESOLVED: That the City Council approves the Reclamation Plan Amendment and Financial Assurances, set forth as Attachments A, B and C of the Planning Commission Staff Report, attached.

FURTHER RESOLVED: That the City Council adopts as conditions of approval of the Reclamation Plan Amendment all of the mitigation measures identified in the EIR and the Mitigation Monitoring and Reporting Program (MMRP), as set forth as Exhibit B to Council

Resolution 78358 and directs the City Administrator to ensure that these are duly and diligently implemented and enforced.

FURTHER RESOLVED: That the Council finds and determines that this Resolution complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

FURTHER RESOLVED: That the record before this Council relating to this action includes, without limitation, the information set forth in Staff Report including the attached Planning Commission staff report, all final staff reports and final documentation and information produced by or on behalf of the City, including without limitation the Draft and Final EIRs, the Draft and Final SEIRs, and supporting final technical studies and appendices, and all related and supporting material, and all final notices relating to the application and attendant hearings and meetings; all oral and written evidence received by the City Planning Commission and City Council during the public hearings on the Leona Quarry project; all written evidence received by relevant City staff before and during public hearings on the application; and all matters of common knowledge and all official enactments of the City such as the General Plan, Oakland Municipal Code, Oakland Fire Code, Oakland Planning Code, other applicable City policies and regulations and all applicable state and federal laws, rules and regulations.

FURTHER RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City Council's decision is based are respectively: 1) the Community and Economic Development Agency (CEDA), Planning Division, 250 Frank Ogawa Plaza, suite 3300, Oakland, CA and 2) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1st Floor, Oakland, CA.


FURTHER RESOLVED: That the recitals contained in this Resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, April 20, 2004

**PASSED BY THE FOLLOWING VOTE:**

AYES: BROOKS, ~~BRUNNER~~, CHANG, NADEL, QUAN, REID, WAN, PRESIDENT  
DE LA FUENTE - 7

NO: 0  
ABSENT: BRUNNER - 1  
ABSTENTION: 0

Attest:   
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City Clerk and Clerk of the Council of  
the City of Oakland, California