

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA SUMMARILY VACATING THE ROAD KNOWN AS "PERMANENTE ROAD" ON AND THROUGH ASSESSOR PARCEL NUMBERS: 351-09-013, 351-09-022, 351-09-023, 351-10-011, 351-10-033, 351-11-001, LOCATED AT THE WEST TERMINUS OF STEVENS CREEK BOULEVARD, CUPERTINO**

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**WHEREAS**, Hanson Permanente Cement, Incorporated (operated by Lehigh Cement, Incorporated, parent holding Heidelberg Cement, collectively "Lehigh) is the owner of a property located at the west terminus of Stevens Creek Boulevard, Cupertino, Assessor's Parcel Numbers: 351-09-013, 351-09-022, 351-09-023, 351-10-011, 351-10-033, 351-11-001 ("Lehigh Property"), and desire to vacate an existing right-of-way known as Permanente Road which is depicted in Exhibit 1 attached hereto; and

**WHEREAS**, the document dedicating Permanente Road to the public was recorded in Book 170 O.R. Pages 10-13 of the official records of the County of Santa Clara, which is attached hereto as Exhibit 2; and

**WHEREAS**, during hearings held by the Board of Supervisors regarding whether and to what extent quarrying is a legal nonconforming use on the Lehigh Property, evidence was presented to the Board and the Board determined that Permanente Road had not served as a public road since approximately 1935 and directed the owner to apply for formal abandonment of the Road (*see* resolution adopted by Board of Supervisors on March 1, 2011, agenda item #23, and materials submitted to the Board of Supervisors for the public hearing held on February 8, 2011, agenda item #27); and

**WHEREAS**, the portion of Permanente Road to be vacated has been gated and impassable for vehicular travel for a period of five consecutive years, and no public money was expended for maintenance on the road during such period; and

**WHEREAS**, the portion of Permanente Road to be vacated has not been used for the purpose for which it was dedicated or acquired for more than seventy years immediately preceding the proposed vacation; and

**WHEREAS**, the County of Santa Clara has spent no public money maintaining Permanente Road and has no plans to add it to the County maintained road system in the future; and

**WHEREAS**, Permanente Road qualifies for summary abandonment pursuant to California Streets and Highways Code sections 8330 *et seq.*

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**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Santa Clara, State of California, as follows:

(1) Permanente Road is hereby summarily vacated pursuant to Streets and Highways Code sections 8330 through 8336.

(2) The portion of Permanente Road to be vacated is depicted on Exhibit 1 and described on Exhibit 2 attached hereto. The precise description of the road is recorded in Book 170 O.R. Pages 10-13 of the official records of the County of Santa Clara.

(3) The facts under which the summary vacation is made include the following:

(a) The portion of Permanente Road to be vacated has been impassable for vehicular travel for more than seventy years, and no public money was expended for maintenance on the road during such period (Sts. & Hy. Code § 8331); and

(b) The portion of Permanente Road to be vacated has not been used for the purpose for which it was dedicated or acquired for more than seventy years immediately preceding the proposed vacation (Sts. & Hy. Code § 8333(a)).

(4) From and after the date this resolution is recorded, the portion of Permanente Road vacated herein shall no longer constitute a street or road.

**PASSED AND ADOPTED**, by the Board of Supervisors of the County of Santa Clara, State of California, on \_\_\_\_\_, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

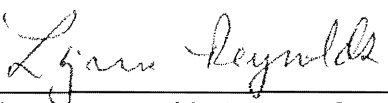
**ABSTAIN:**

\_\_\_\_\_  
Dave Cortese, President  
Board of Supervisors

**ATTEST:**

\_\_\_\_\_  
Maria Marinos, Clerk of the Board of Supervisors

**APPROVED AS TO FORM AND LEGALITY:**

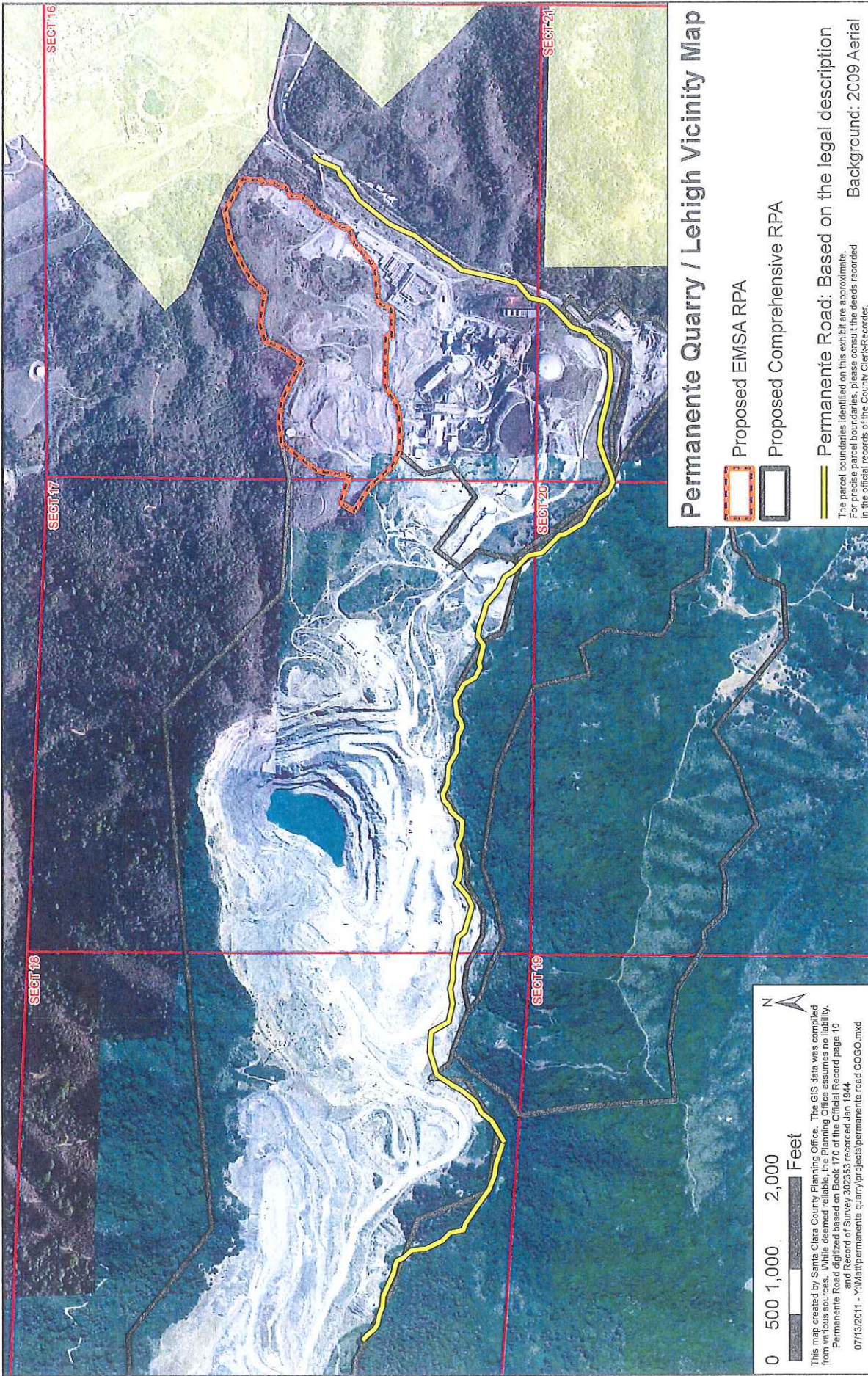
  
\_\_\_\_\_  
Lizanne Reynolds, Deputy County Counsel

Exhibits attached to this Resolution:

Exhibit 1: Permanente Road Location Map

Exhibit 2: Description of Permanente Road Right-of-Way to be vacated





### Permanente Quarry / Lehigh Vicinity Map

-  Proposed EMSA RPA
-  Proposed Comprehensive RPA
-  Permanent Road: Based on the legal description

The parcel boundaries identified on this exhibit are approximate. For a more detailed view, please consult the files recorded in the official records of the County Clerk/Recorder. Background: 2009 Aerial

0 500 1,000 2,000 Feet

This map created by Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability. Permanente Road digitized based on Book 170 of the Official Record page 10 and Record of Survey 302353 recorded Jan 1944. 07/13/2011 - Y:\Map\permanente quarry\projects\permanente road COGO.mxd



Alice S. Swain et al to Santa Clara County

State of California,  
 County of Santa Clara }  
 Whereas Alice S. Swain et al being  
 ten or more freeholders of the Vicar Road District, in Santa  
 Clara County, and taxable therein for road purposes did on  
 the 5<sup>th</sup> day of July A.D. 189<sub>9</sub> petition in writing, the Board of  
 Supervisors of said Santa Clara County to open, establish and  
 maintain a public road in said district; and Whereas, the  
 said Board of Supervisors did thereafter, on the 10<sup>th</sup> day of April  
 A.D. 1899 acting upon said petition order and declare that a  
 public road be opened, established, located and maintained  
 in said district, to be known as the Permanent road the  
 description of the center line of said road as declared opened  
 and established as aforesaid being as follows to-wit: Mag  
 Var. 16° 30' E. Course True: Beginning at a point in the line  
 between the lands of John Snyder and the Alvarez heirs: from  
 which bears T 13 the terminus of the Permanent road. N. 48°  
 45' W. 2.72 chains; thence over lands of the Alvarez heirs. P. 1 S. 42°  
 52' W. 1.37 chains; P. 2 S. 23° W. 3.31 chains to P. 3 from which bears  
 W. P. W. 14" diameter. B. T. P. 3 N. 27° W. 29 links, P. 3 S. 69° 30' W. 1.34  
 chains P. 4 S. 42° W. 1.11 chains; P. 5 S. 59° W. 3.33 chains; P. 6 S. 38°  
 15' W. 6.53 chains; P. 7 S. 21° 40' W. 2.46 chains; P. 8 S. 22° 48' W. 2.15  
 chains; P. 9 S. 38° 24' W. 4.79 chains; P. 10 S. 31° 38' W. 2.98 chains. P. 11  
 S. 46° 50' W. 1.91 chains; P. 12 S. 12° 30' W. 7.10½ chains from which bears  
 W. S. O. B. T. P. 13 21.85° W. 27½ links; P. 13 S. 15° 30' W. 2.47½ chains; P. 14  
 S. 50° 35' W. 2.14 chains; P. 15 S. 13° E. 1.94 chains; P. 16 S. 14° 57' W. 1.07½  
 chains; P. 17 S. 43° 37' W. 2.76 chains; P. 18 S. 47° 53' W. 2.97 chains P. 19  
 S. 31° W. 2.96 chains; P. 20 S. 52° 15' W. 1.33 chains; P. 21 S. 26° 45' W. 3.19  
 chains; P. 22 S. 85° 20' W. 4.49 chains from which bears a S. O. 4 feet  
 in diameter B. T. P. 23 S. 38½° E. 1.04½ links P. 23 N. 80° 30' W. 4.69  
 chains; P. 24 N. 75° W. 3.33½ chains; P. 25 N. 86° 15' W. 3.25 chains; P.  
 26 S. 73° 10' W. 2.94 chains; P. 27 S. 67° 50' W. 2.17 chains; P. 28 S. 73°  
 10' W. 1.64 chains to Sta. 29 in the line between Sec. 20. 21. 27. 28

12-147

W 1.67 chains; to Sta. P. 83 from which bears a Laurel 10" dia  
 N 85 $\frac{1}{2}$ ° W. 2.0 links, S 38° 50' W. 2.14 chains, S 62° 50' W 2.05 chains  
 S 39° 10' W. 2.17 chains; S. 60° W. 4.02 chains; to Sta. P. 86 from  
 which bears a L. O. 8" dia East 18 links N. 71° 35' 3.59 chains  
 to Sta. P. 87 from which bears a Laurel 6" dia N. 33° E. 4 $\frac{1}{2}$   
 links N 82° 35' W 1.87 chains; N 69° 10' W. 2.50 chains; N 54°  
 30' W. 2.71 chains N 55° 35' W 3.13 chains; N 73° 30' W 1.16 chains  
 N 10° W. 2.29 chains to lands of A. Coleman, and at a point  
 10.30 chains North of the 1/2 Sec. corner between Secs. 18 and 17  
 thence over lands of said Coleman N 46° 20' W 1.82 chains; N. 26°  
 W 2.04 chains; N 6° 10' W. 2.42 chains N. 45° W. 1.78 chains  
 N 25° W. 1.20 chains to Sta. P. 98 from which bears a L. O.  
 4" dia N 32 $\frac{1}{2}$ ° E. 14 links; N. 72° W 1.00 chains; N 30 $\frac{1}{2}$ ° W. 1.00 chains;  
 N 65 $\frac{1}{2}$ ° W. 4.26 chains N 85° W. 1.76 chains; N 70° 30' W. 1.44 chains;  
 N 79° W. 1.59 chains; N 86° 45' W. 1.00 chains; N 39 $\frac{1}{2}$ ° W. 1.67 chains;  
 N 49° W. 1.00 chains to Sta. P. 107 from which bears a Live Oak  
 4" dia S. 17° W. 2.2 links, said road being throughout its entire  
 length of a uniform width of 40 feet, being 20 feet on each  
 side of the above described center line.

Now, Therefore, in consideration of the location, establishment  
 and maintenance by said County of Santa Clara of said road as above described and of  
 the rights to us and each of us by such location, establishment and  
 maintenance over the undersigned owners, occupants and claimants  
 of lands required for road purposes on the line of the foregoing des-  
 igned route, hereby signify our approval of the location of said  
 road, and do hereby consent thereto; and we do hereby grant  
 and dedicate the lands belonging to us and each of us,  
 so far as the same may be required for such road, to  
 said County of Santa Clara, to that purpose and for the use  
 of such road, and we do hereby waive all claims for  
 damages for and on account of the same.

In Witness Whereof we have hereunto set our hands  
 and seals on the date set opposite our names.

May 19<sup>th</sup> 1893 Alice de Sarain (S.S.)

Or 2 W. W. D. W. on the line between lands of Alvarez  
 heirs and P. J. Navarra. from which bears a W. O. Sycamore  
 from which bears the corner to Sec. 16, 17, 20, 21. of same T<sup>p</sup> and  
 Range, N 12.64 $\frac{1}{2}$  chains. P 29 on lands of P. J. Navarra N 53°  
 38' W 1.99 chains; N 32° 50' W 1.87 chains; N. 59° 31' W 0.90 chains  
 to lands of Chas. D. Sullivan, thence continuing on same course  
 at 3.74 chains Sta P. 33. from which bears a sycamore 12" dia.  
 N 37 $\frac{1}{2}$ ° E. 42 links; N 31° 30' W. 3.57 chains. N 7° 15' W 0.85 chains  
 N 46° 05' W 4.11 $\frac{1}{2}$  chains N 9° 40' W. at 0.40 chains leave lands of  
 Chas. D. Sullivan and enter lands of Mary Ann Crocker and  
 Kate Mary Dillon; at 1.87 chains P 36. and continuing on lands  
 of Crocker & Dillon N 41° 10' W 1.42 chains to Sta P 37 from  
 which bears a S. O. 16" dia. N 84° W 29 links; N 48° 27' W 2.17  
 chains; N 32° 08' W 1.77 chains; N 65° 25' W 2.37 chains; N 49° 24' W  
 3.13 chains; N 78° 20' W 2.21 chains; N 66° 45' W 1.36 chains N 80° 45'  
 W 2.01 chains to Sta P 44 from which bears a sycamore 20" dia.  
 S 32° E 16 links; S 56° 15' W 1.77 chains; N 75° 30' W 3.03 chains; S 67°  
 03' W 0.71 chains; N 63° 50' W 1.87 chains; N 30° 30' W. 2.27 chains  
 N 60° 40' W 2.96 chains. S 83° 40' W 2.56 chains S. 56° 40' W 1.15 chains  
 S 76° 40' W 1.11 $\frac{1}{2}$  chains; W 62° 15' W 1.53 chains; N 85° 10' W 2.70 chains  
 to Sta P. 55 from which bears a sycamore 2 feet dia. S 65 $\frac{1}{4}$ ° E  
 36 links N 60° 35' W 2.75 chains; N 87° W 2.85 chains; N. 65° 15' W  
 1.98 chains S 77° 30' W 1.09 chains S 50° 10' W 1.37 chains; S 67° 08'  
 W. 0.89 chains; S. 42° 05' W 2.50 chains; N 85° 30' W 2.31 chains  
 N. 68° 13' W 1.67 chains; to Sta P. 65 from which bears a sycam-  
 ore 2 feet dia N. 74 $\frac{1}{2}$ ° W 29 links; S 75° 35' W. 2.49 chains N  
 83° 45' W. 3.42 chains; N. 55° 55' W 0.70 chains; S 50° 05' W. 2.85  
 chains; S. 65° 50' W 1.76 chains N 74° 30' W. 4.41 chains; N. 39° 15'  
 W 1.41 chains; N 79° 35' W. at 1.50 chains. leave lands of Crocker  
 and Dillon and enter lands of Alice D. Swain, and continuing  
 on lands of said Alice D. Swain at 3.23 chains P. 75 N 89° 10'  
 W 2.39 chains; N. 73° 30' W. 1.56 chains S. 81° 10' W. 2.57 chains  
 N. 77° 20' W. 3.11 chains; N 29° 30' W 2.26 chains; N. 85° 45' W 3.36  
 chains; S 73° 18' W 3.97 chains; S. 33° 30' W. 3.15 chains

Kate Dillon Casey {L.S.}
Guardian of the Person & Estate of Kate May Dillon a Minor.

May 1893 Mary Jane Crockett {L.S.}

May 1893 Chas. A. Sullivan {L.S.}

May 1893 P. J. G. Keenan {L.S.}

May 1893 Andrew Coleman {L.S.}

Aug 24/93 Christina F. Pellicier {L.S.}

Jan 20/94 Zacharias Alvarez {L.S.}

By Christina F. Pellicier, his Attorney in fact.

Jan 22/94 {L. A. Pellicier {L.S.}

{M. M. Alvarez {L.S.}

{A. J. Alvarez {L.S.}

State of California

City and County of San Francisco } On this seventeenth day of
May A.D. One thousand eight hundred and ninety three before me
James L. King a Notary Public in and for the said City and
County, residing therein, duly commissioned and qualified, personally
appeared Kate Dillon Casey, Guardian of the Person and Estate of
Kate May Dillon, a Minor, known to me to be the person described
in, whose name is subscribed to, and who executed the within
Instrument, and she acknowledged that she executed the same as
such Guardian. In Witness Whereof I have hereunto set my
hand and affixed my official seal, in the City and County of
San Francisco, this day and year last above written

James L. King, Notary Public
Within and for the City and County of San Francisco,

State of California, 308 California St. San Francisco

State of California

City and County of San Francisco } On this seventeenth day of
May A.D. One thousand eight hundred and ninety three before me
James L. King, a Notary Public in and for the said
City and County, residing therein, duly commissioned, and
qualified, personally appeared Mary Jane Crockett, known to me
to be the person described in, whose name is subscribed to, and who

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