

# Board of Supervisors says more than 100 year-old quarry in Cupertino still has vested rights

**Matt Wilson, Bay Area News Group, 2-9-11**

At a packed hearing to help guide future decisions about land use by Lehigh Permanente Quarry, the Santa Clara County Board of Supervisors on Tuesday unanimously agreed that operators of had "vested rights" for numerous parcels on its site in unincorporated Cupertino.

The decision will allow the quarry to continue business as usual on parts of 2,656 acres of property without the need for most county issued use-permits.

Mining and quarrying on the site dates back to the early 1900s, long before Santa Clara County had its first zoning ordinance in 1937. The county has long said that portions where the quarry operated predated county regulations and were grandfathered and thus did not require use-permits. The board of supervisor's hearing was held to determine whether and to what extent the quarry had a legal non-conforming use for surface mining activities.

The Permanente Quarry is a limestone and aggregate mining operation in the Santa Clara County foothills located just beyond the borders of incorporated Cupertino. The mine has a single large pit where limestone and aggregate are excavated.

The meat of the hearing was to determine to what degree mining occurred on some parcels before county enforcement occurred. Lehigh officials argued that even if mining was not being done explicitly in one parcel, that there was still other uses like transportation roads, administrative offices and storage space. It was argued that these uses were integral to the overall quarrying process. Lehigh officials used aerial photographic evidence from multiple decades showing various activity related to mining on the parcels.

The decision Tuesday did not grant any land use authorization, however the decision will guide the process for future consideration of land use approvals on the site, according to county staff. Determining which parcels remain grandfathered will help the quarry and county determine which parts of the property will require a use-permit.

Residents packed the board of supervisors chambers, forcing a second meeting room to be opened where the proceeding were televised. More than 100 speaker cards were filled out and public comment lasted approximately two hours. There was an even split between Lehigh supporters and opponents during the public hearing. Lehigh employees quickly filled up the seating leaving many residents standing along the side.

A rally was held by dozens of residents outside Santa Clara County offices along Hedding Street. Cupertino Councilman Barry Chang led chants with a bullhorn while residents carried signs protesting the cement facility and quarry.