

**RESOLUTION NO. 2021-11**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF TRINITY  
FOR REVOCATION OF CONDITIONAL USE PERMIT P-97-32  
(Trinity Sand and Gravel, Smith Pit Tailing Project Phase II)**

**WHEREAS**, pursuant to Trinity County Code § 17.25A.030(B), a use permit is required in order to conduct mining activities within the County on parcels zoned Open Space; and

**WHEREAS**, a Conditional Use Permit (Use Permit) and Floodplain Development Permit (Exhibit A), along with a Reclamation Plan, was approved by the Planning Commission on November 13, 1997, to allow mining operations as part of Phase II of the Smith Tailings Project on certain parcels (then identified as APN's 012-120-42-00 and 012-120-49-00); and

**WHEREAS**, as a result of a Tentative Parcel Map (P-08-06), the subject parcels are now identified as APN's 012-120-62, 012-120-63, and 012-120-64; and

**WHEREAS**, in 2018, Trinity Sand and Gravel became the landowner of the subject parcels and mine operator of the Smith Tailings Project mining operation; and

**WHEREAS**, the Trinity County Planning Commission and Planning Department has received a large volume of complaints from the Junction City Community beginning in 2017, which continue to the present time; and

**WHEREAS**, a public nuisance is defined by California State Civil Code § 3480 as "one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal"; and

**WHEREAS**, the Trinity County Planning Department or Department of Transportation has not issued any notices of violation to the mine operator within the last three years; and

**WHEREAS**, prior to 2021, the Trinity County Department of Transportation previously oversaw the implementation of the Surface Mine and Reclamation Act (SMARA) program; and

**WHEREAS**, revocation of a Use Permit does not revoke a Reclamation Plan or alter an existing financial assurance mechanism; and

**WHEREAS**, with the revocation of Use Permit P-97-32, slide material located on the subject parcels is likely to remain in place; and

**WHEREAS**, a new Use Permit must be obtained to continue mining operations on the subject parcels; and

**WHEREAS**, pursuant to Trinity County Code § 17.32.060(C), during the August 13, 2020, Planning Commission meeting, the Planning Commission directed staff to have the Smith Pit Tailings mining operation and the related Use Permit on the agenda for the next reasonable meeting for discussion; and

**WHEREAS**, during the October 8, 2020, Planning Commission meeting, the Planning Commission gave direction to staff to schedule Use Permit P-97-32 for modification or revocation by the Planning Commission per Trinity County Code § 17.32.070(C); and

**WHEREAS**, after due notice of a public hearing in accordance with applicable laws, the matter came before the Planning Commission on March 25, 2021; and

**WHEREAS**, at said hearing, due consideration was given to all oral and written comments regarding the request for modification or revocation of the Use Permit, and the Planning Commission directed staff to prepare findings for revocation of Use Permit P-97-32 to present at the April 8, 2021, Planning Commission meeting; and

**WHEREAS**, at the April 8, 2021, meeting, the Planning Commission voted to revoke Use Permit P-97-32, with findings reflected in Planning Commission Resolution No. 2021-05; and

**WHEREAS**, the decision of the Planning Commissions was appealed by Trinity Sand and Gravel to the Trinity County Board of Supervisors and considered at the July 7, 2021, meeting which resulted in the item being remanded back to the Planning Commission without Commissioner McIntosh's involvement and holding the existing revocation in place.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the County of Trinity makes the following findings:

1. Pursuant to Trinity County Code § 17.32.060(C), the Planning Commission may set a hearing for modification or revocation of a Use Permit.
2. The Planning Commission makes the following determinations regarding the Phase II Smith Pit Tailings Mining Operation Commission Issued Use Permit P-97-32:
  - A. After careful consideration and given the complaints received from Junction City School staff and Junction City residences regarding excessive noise, poor air quality, hours of operation outside of those permitted, regular disruption of school activities, and general concern with students' and residents' safety and welfare because of the unpermitted activities of Trinity Sand and Gravel, the Planning Commission has determined that the mining operation has been conducted in a manner that is determinantal to the public health, safety and welfare, specifically regarding traffic, noise, and air quality, and that the mining operation constitutes a public nuisance (Exhibit B); and
  - B. The Planning Commission has determined that, based on County staff investigations of complaints submitted by Junction City residents on January 31, 2020, and October 15, 2020, the mining operation has been found in violation of Use Permit P-97-32 Condition #5 (Exhibit C):
3. The Planning Commission of the County of Trinity hereby adopts Resolution 2021-11 for the revocation of Use Permit P-97-32.

**DULY PASSED AND ADOPTED** this 14<sup>th</sup> day of October, 2021, by the Planning Commission of the County of Trinity by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:  
RECUSE:

\_\_\_\_\_  
WILLIAM SHARP, VICE-CHAIRMAN  
Planning Commission  
County of Trinity, State of California

ATTEST:

By:

\_\_\_\_\_  
KIMBERLY HUNTER  
Secretary of the Planning Commission

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