



City of Yuba City

Council Chambers

June 13, 2018
6:00 p.m.

The meeting was called to order at 6:00 P.M.

Roll Call:

Present: Commission Members Michele Blake, John Sanbrook, John Shaffer, Jana Shannon, Jackie Sillman, Vice Chair Dale Eyeler, and Chair Daria Ali.

Also present was Arnolando Rodriguez, Development Services Director/Recording Secretary.

Pledge of Allegiance to the Flag:

Led by Commissioner Blake

Public Communication:

No comments made during this time.

Commissioner Sillman recused herself due to conflict of interest and left the room.

Public Hearing:

Item #3: Consideration of a two-year extension of Use Permit 12-01 requesting authorization to establish a Large Volume Transfer Station.

Dave Kuhnen, on behalf of Recycling Industries, Inc. is requesting authorization to extend previously approved Use Permit (UP 12-01) for an additional two years. Use Permits become null and void if the activity or use for which the permit was issued has not substantially commenced within the two years. Extensions may be granted in two-year increments. In this particular case, the Planning Commission approved the Use Permit on June 24, 2014 and granted the applicant a two-year extension in August 2016. As of today, the applicant has not effectuated the permit. The subject site is located at 140 Epley Drive (south of Lincoln Road, east of Garden Highway, APN:54-083-023)

Presented by Director Rodriguez

Director Rodriguez reviewed the request for an extension of Use Permit 12-01. Director Rodriguez noted that:

- Recycling Industries, Inc. is requesting authorization to extend a previously approved Use Permit for an additional two years. Use Permits become null and void if the activity of use for which the permit was issued has not substantially commenced within two years.
- Recycling Industries, Inc. is currently operating under Use Permit 07-12 in 5 metal buildings as a Recycling facility.

- Use Permit 12-01 was originally reviewed and approved by the Planning Commission on July 23, 2014 (Mitigated Negative Declaration was filed).
- Use Permit 12-01 requested to establish a Large Volume Transfer Station (LVTS), removal of 2 building, construction of a new 25,000 square foot building, and would permit the facility to receive 100 tons or less per day of mixed recyclables and solid waste.
- Use Permit 12-01 would allow the acceptance of solid waste (i.e. putrescible material) of up to 10 percent of all material.
- Use Permit 12-01 allows the facility to be self-haul only; packer garbage trucks would not be permitted.
- Use Permit 12-01 also requires an annual review by the Commission for 3 years following the construction of the facility.
- Use Permit 12-01 was originally extended by the Commission on August 24, 2016, expiring July 23, 2018.
- Recycling Industries, Inc. has not effectuated the permit, and are requesting a second extension as the following conditions have been met:
 - A timely request to extend the permit was received.
 - The conditions have not changed to the extent that would warrant denial of the extension:
 - Site is planned and zoned for Manufacturing, Processing, and Warehousing.
 - The surrounding area was and remains industrial in nature
 - Area has experienced nominal change.
 - No changes are proposed as part of this permit
- The applicant has filed entitlements to amend Use Permit 12-01 (Use Permit 17-05). The proposal requests:
 - To expand the facility from 3 acres to 4 acres.
 - The increase the amount of material that could be accepted from 100 tons per day to 300 tons per day.
 - Removal of any limitations on putrescible material.
 - Removal of any limitations on type of deliveries (i.e. self-haul of commercial).
- Use Permit 17-05 (amendment) is currently in the environmental review phase (Initial Study per CEQA). The City will retain an independent consultant to peer review said document.
 - Upon submittal of the necessary documents, staff will schedule for consideration by the Planning Commission, and there will be a public hearing.
- The recommendation for this evening is to grant the extension of Use Permit 12-01 for two years with a new expiration date of July 23, 2020, with the addition of the following condition:
 - The applicant agrees to defend, indemnify and hold harmless the City, its officers, agents and employees, from any and all claims, damages, liability or actions arising out of or connected with this project, except to the extent such liabilities are caused by actions of the City.

Commissioner Sanbrook noted that the initial extension was approved on August 24, 2016 for two years and; therefore, arguably it would not expire until August 24, 2018. In addition, extensions for land use entitlements do not require a public hearing.

Director Rodriguez confirmed this was correct.

Commissioner Sanbrook noted that he was on the Commission in 2014, at the time of the original approval of Use Permit 12-01. Since this approval, Commissioner Sanbrook noted the substantial effort in time and financial investment that Recycling Industries, Inc. has devoted to Use Permit 12-01. Commissioner Sanbrook noted that these efforts could be argued as utilization of Use Permit 12-01. Commissioner Sanbrook asked for Director Rodriguez' take on this argument.

Director Rodriguez deferred to the applicant in terms of approvals from various local enforcement agencies; however, noted that Section 8-5.7105 of the Yuba City Municipal Code states, in terms of commencement of construction/effectuating a land use entitlement when there is new construction, that the applicant would have to install building foundations in order for the permit to be effectuated.

Commissioner Sanbrook inquired as to whether the applicant was required to remove buildings 2 and 3 as indicated on the site plan, in addition to constructing the new building.

Director Rodriguez confirmed this was correct.

Commissioner Blake inquired as to what inhibited construction in the last two years.

Director Rodriguez deferred to the applicant.

Vice Chair Eyeler questioned whether the Commission should take the expansion (Use Permit 17-05) in to consideration when reviewing the extension (Use Permit 12-01).

Director Rodriguez noted that Municipal Code requires the item before the Commission (Use Permit 12-01) to be in compliance with the two conditions outlined: (1) a timely request to extend and (2) that the conditions have not changed to the extent that would warrant denial of the request. Director Rodriguez noted that it would not be appropriate to take in to consideration a project that is not before the Commission this evening, and that the only reason Use Permit 17-05 was added in the staff report was for transparency as there has been a lot of discussion in the community about it. Director Rodriguez noted that Use Permit 17-05 is still in the infancy stages for processing, and could hypothetically still be withdrawn.

Vice Chair Eyeler disclosed that he toured the site with the applicant, and has also met with David Shaw and Rick Jimmerson who are opposed to the extension. Vice Chair Eyeler noted that the Commission should not consider the expansion when determining the extension.

Director Rodriguez and Commissioner Sanbrook agreed.

Vice Chair Eyeler noted that a Traffic Impact Study was not prepared at the time of the original approval of Use Permit 12-01. He then questioned whether any other vehicles other than the packer garbage trucks were prohibited at the time of the original approval of Use Permit 12-01.

Director Rodriguez clarified that, at the time, traffic was assessed; however, based on the number of vehicles per day, a Traffic Impact Study was not warranted. Also, only the packer garbage trucks were excluded at the time.

Vice Chair Eyeler stated that there has been no measurable new development in the area that would cause the Commission to believe that there has been a substantial increase in traffic since 2014.

Director Rodriguez agreed.

Vice Chair Eyeler clarified that a CEQA environmental assessment was not completed in 2014.

Director Rodriguez noted that Mitigated Negative Declaration environmental assessment was prepared in 2007 for Use Permit 07-12, and again in 2014 for Use Permit 12-01. Also, a Notice of Completion was filed with the State Clearinghouse, and a Notice of Determination was filed with Sutter County.

Vice Chair Eyeler inquired as to a possible date that the expansion (Use Permit 17-05) would be brought before the Planning Commission.

Director Rodriguez deferred to the applicant as to when the Initial Study would be submitted to the City for Use Permit 17-05. Furthermore, once received, it would have to be peer reviewed for compliance with CEQA before moving the project forward.

Commissioner Shannon noted that she too was on the Commission in 2014 when Use Permit 12-01 was approved. She noted that the Commission really did its research prior to the approval. Commissioner Shannon noted that the purpose of this meeting is to discuss the extension of that permit, and not any amendment to it. She noted it is not appropriate to discuss the possible expansion (Use Permit 17-05) at this time. Commissioner Shannon noted that the issue before the Commission today is the extension of Use Permit 12-01, and that is all that will be considered.

Commissioner Sanbrook concurred with Commissioner Shannon.

Commissioner Shaffer noted that the language about the expansion (Use Permit 17-05) should not have been included in the staff report, as it became confusing. Commissioner Shaffer asked if any negative feedback has been received from adjoining landowners since 2014 due to the operations of the applicant.

Director Rodriguez did not recall any negative feedback since he has been with the City. He noted that two neighboring property owners requested that the City advise them of any public hearings/staff reports. Director Rodriguez noted that they were notified, and received a copy of the staff report.

Commissioner Shaffer inquired whether the citizens who wrote letters of support during the original application period for Use Permit 12-01 have reached out with a difference of opinion.

Director Rodriguez said no.

Commissioner Sanbrook noted that the two conditions outlined in the staff report, that the Commission should consider as it pertains to this extension, have been met.

Director Rodriguez agreed.

Chair Ali agreed with the Commission that the focus of the evening should be on extension (Use Permit 12-01), and not on the possible expansion (Use Permit 17-05); although, she was glad to see the information presented. Chair Ali noted that the extension (Use Permit 12-01) is not required to be opened for public comment; however, based on the level of concern from the

community, it will be opened this evening. Chair Ali noted that she too was on the Commission in 2014, and has done extensive research for this project.

Chair Ali opened the public comment period and invited persons in favor of the extension to speak.

Dave Kuhnen, on behalf of Recycling Industries, Inc., noted his appreciation of Commission for considering the extension of Use Permit 12-01. He noted that Recycling Industries, Inc. is a home grown local company, and they would like to keep it that way. David stated that a lot of environmental work was completed for Use Permit 12-01. Also, the expansion project (Use Permit 17-05) will be presented to the Commission in a few months; therefore, the extension is needed.

Commissioner Sanbrook asked if Dave was prepared to move forward on Use Permit 12-01.

Dave Kuhnen stated that they are prepared to move forward.

Commissioner Sanbrook inquired about the cause of the delay to break ground on the project.

Dave Kuhnen noted the lengthy process of getting approval from local enforcement agencies prior to construction. He noted that approvals were obtained at the end of 2015, and at that point it wasn't economically feasible to move forward with the project before the deadline; therefore, the original extension was requested/granted. Dave noted that after the extension, the fourth acre became available and they were notified that they would have to go back to the Planning Commission for approval.

Commissioner Sanbrook questioned if there was a problem securing financing at the time (2016).

Dave Kuhnen confirmed yes, there was a problem securing financing; however, that is no longer the case, and now they are just waiting on the approval process.

Commissioner Sanbrook inquired about the proper permits needed to remove the two buildings (2 and 3), and construct the new building.

Dave Kuhnen stated that the required permits still need to be obtained.

Vice Chair Eyeler questioned why the extension and expansion were not presented to the Commission together.

Dave Kuhnen stated that the documents will not be ready for Use Permit 17-05 before the existing permit (Use Permit 12-01) expires. If Use Permit 12-01 expires, Recycling Industries, Inc. will be out hundreds of thousands of dollars, and that doesn't seem fair. Dave noted that the City needs this site, and that Recycling Industries, Inc. provides local jobs.

Commissioner Shaffer noted that Recycling Industries, Inc. is allowed to take up to 100 tons a day, and he questioned what the actual numbers are today.

Dave Kuhnen noted that they are currently at approximately 25 tons a day.

Commissioner Shaffer inquired whether or not they expect to reach the 100 ton limit.

Dave Kuhnen stated that they won't get close to the 100 tons a day, but they will increase.

Commissioner Shaffer asked if the company has received any negative feedback from neighboring businesses/residents.

David Kuhnen stated that they have never had a complaint in the 9 years they have been operating.

Commissioner Sanbrook inquired as to how much it took financially to obtain all the approvals for Use Permit 12-01.

Dave Kuhnen noted that it took approximately \$150,000.

Commissioner Blake noted a traffic assessment for Use Permit 12-01 was done in 2014 in the Facility Processing Report. She noted that it reported on daily vehicle types/counts. Commissioner Blake inquired as to whether or not this is still accurate information.

Dave Kuhnen concurred that this is still accurate information, and they are actually below the counts currently.

Chair Ali noted that she has also spoken with both sides of this issue as well, and called for a 5 minute recess before continuing with the public comment period.

Chair Ali reopened the public comment period after the 5 minute recess.

Marc Boomgaarden, 1520 Pintail Court, Yuba City, CA, asked Director Rodriguez if this is for an extension of an existing permit?

Director Rodriguez noted that this is for an extension of an existing permit approved back in 2014, and the only condition staff has requested is adding the language regarding indemnification.

Scott Kuhnen, President of Recycling Industries, Inc., spoke in favor of the extension, and was grateful to the Commission for their consideration.

Randy Page, 1871 Malkit Court, noted that we should support local businesses when ever we can. He noted that the extension should be granted, and the expansion should be considered at a later time.

Chair Ali noted that there are no more speakers in favor of the project, and opened the public comment period to those opposed.

Dave Shaw, 2148 Brar Court, noted he does not want a garbage facility within City limits. He wants to ensure that the public is aware of this project. Dave noted that he is not behind the "Stop the Dump" campaign. He inquired as to what the need was for Use Permit 12-01, and if we really need to move forward with it if it is not being used. Dave questions the long-term plan of Recycling Industries, Inc.

Rik Jimmerson, 2301 Gold Leaf Court, noted that he does not have any outside interests in this project other than his concern as a citizen. Rik is concerned that there was no public comment made at the time Use Permit 12-01 was approved because no one knew enough about the industry. Rik believes that City limits is not a proper place for a transfer station. Rik stated he has

seen trash falling out of trailers heading to the transfer station. He does not agree that extension should be automatic, and the public should be considered.

Chair Ali closed the public comment period.

Director Rodriguez and Dave Kuhnen addressed the questions asked by the opposition. Director Rodriguez noted that the applicant is currently operating under Use Permit 07-12. Dave Kuhnen clarified that they are just asking for an extension, and the expansion is not being discussed this evening. Dave also noted that commercial vehicles are being utilized, and that Recycling Industries, Inc. does not have packer garbage trucks. Dave also noted that he polices the neighborhood for trash that could possibly fly out, and it has not been an issue.

Chair Ali noted that approving the extension does not approve the expansion (Use Permit 17-05), and that the approval of Use Permit 12-01 allows Recycling Industries to continue with an already approved project.

Commissioner Sanbrook asked Dave Kuhnen if he has any issues with the indemnification condition that staff has requested.

Dave Kuhnen noted that he did at first, but is prepared to go along with it.

Several Commission members noted their appreciation of the time and effort put in to this project by both sides, as well as their support of the extension. There being no further discussion, Commissioner Shannon moved to grant the extension of UP 12-01 for two years with a new expiration date of July 23, 2020, subject to compliance of all previous conditions and the following new condition:

The applicant agrees to defend, indemnify and hold harmless the City, its officers, agents and employees, from any and all claims, damages, liability or actions arising out of or connected with this project, except to the extent such liabilities are caused by actions of the City.

Commissioner Sanbrook seconded the motion. The Commission voted to unanimously approve the project by a vote of 6-0, with Commissioner Sillman recusing herself.

Development Services Director Reports

Director Rodriguez noted that the next Planning Commission Meeting is scheduled for June 27, 2018, at which two Use Permits are anticipated to be presented for the former Carriage Square Shopping Center.

Report of Actions of the Planning Commission:

Chair Ali noted that she presented an overview of the Planning Commission to the City Council on Tuesday, June 5, 2018, and the Planning Commission will begin meeting to work on their Strategic Plan outlining steps for future projects, including:

- Bars and nightclubs Ordinance
- Drive-thru workshop
- Truck terminal text amendment
- Sidewalks and gated subdivisions

- El Margarita Master Plan
- Bogue-Stewart Master Plan

Adjournment:

There being no further business, the meeting was adjourned at 7:38 p.m. to the next regular meeting by Chair Ali.

Arnoldo Rodriguez, Secretary
YUBA CITY PLANNING COMMISSION