

CITY OF YUBA CITY
STAFF REPORT

Date: February 5, 2019

To: Honorable Mayor & Members of the City Council

From: Development Services Department

Presentation By: Darin Gale, Interim Development Services Director

Summary:

Subject: Consideration of an appeal of the Planning Commission's approval of Use Permit 17-05, Development Permit 17-03 and Environmental Assessment (EA) (Subsequent Mitigated Negative Declaration) 17-10, filed on behalf of "Stop the Dump." The site is located at 140 Epley Drive (South of Lincoln Road, east of Garden Highway (A.P.N.s 54-083-014, 015, and 023) (EA 17-10 and Use Permit 17-05 are continued from the meeting of January 15, 2019)

Recommendation: Conduct Public Hearing, incorporate all documents and comments provided at the January 15th hearing into the record, and after consideration:

Consistent with prior direction of the City Council, adopt a Resolution denying the appeal, and approving and adopting the Subsequent Initial Study/Mitigated Negative Declaration EA 17-10 for the project, Development Permit 17-03 and Use Permit 17-05 with amended conditions of approval

Fiscal Impact: The appeal costs are a flat fee paid by the appellant to the City intended to cover staff costs. The applicant has requested the Council refund these fees, which the Council has authority to do

Purpose:

To provide an opportunity for public hearing, and then to finalize the direction of the City Council consistent with the Council's guidance made on this project at its January 15 public hearing.

Background:

Following its January 15th hearing on Recycling Industries proposed expansion of their transfer facility, staff was directed by the City Council to return with the revised resolution and revised conditions of approval related to Use Permit 17-05 and Environmental Assessment 17-10. The resolution would sustain the Planning Commission's approval of the project as to those items, but with revised conditions that reflect those mutually proposed and agreed to by Recycling Industries and Stop the Dump. Consistent with Council's direction, staff have returned with a proposed resolution for consideration. The resolution also includes approval of Development Permit 17-03.

The City Council first heard the appeal of Use Permit 17-05 and related Subsequent Initial Study/Mitigated Negative Declaration (Environmental Assessment 17-10) at a duly noticed public

hearing on January 15, 2019.¹ At the end of that hearing, the City Council continued the hearing to further consider the matter and to allow concurrent consideration of the appeal of Development Permit 17-03. At least 10 day in advance of this Council meeting the City published an updated notice in the Appeal Democrat and notifications to all properties within 2500 feet of the proposed project.

As previously noted in the staff report for the January 15th hearing, Recycling Industries (RI) currently operates a recycling center under Use Permit (UP) 07-12 at 140 Epley Drive. UP 07-12 was approved by the Planning Commission (Commission) on February 29, 2008, and the time to challenge the approval has expired. To date, the City have not received any complaints filed by neighbors or other concerned citizens about RI's current operation under UP 017-12.

In 2012, RI then submitted another application for an Use Permit, UP 12-01, to convert its recycling center into a Large Volume Transfer Station (LVTS). The City prepared an Initial Study/Mitigated Negative Declaration (IS/MND; Environmental Assessment (EA) 12-02), which analyzed the potential impacts associated with construction and operation of a LVTS with a maximum throughput of 100 tons per day (TPD) of mixed waste and recyclables.

After a public hearing on July 23, 2014, the Commission approved UP 12-01 and EA 12-02 for the project subject to compliance with an array of conditions including the following:

1. Operations to be conducted on three acres.
2. Ability to remove two metal buildings and the construction of a new 21,600 square foot building.
3. Would permit the facility to receive 100 tons or less per day of additional mixed recyclables and solid waste.
4. Would allow the applicant to expand existing operations for the acceptance of solid waste (i.e., putrescible material) of up to 10 percent of all delivered material.
5. Would allow for self-haul only. Packer garbage trucks would not be permitted.
6. The Use Permit would be reviewed annually by the Planning Commission for three years following construction of the facility.

Under approved UP 12-01, the facility operator is permitted to operate a LVTS that can accept up to 100 TPD of mixed recyclables and solid waste with a cap of 10 percent putrescible material of all material collected. Solid waste can include garbage from self-haul vehicles, commercial box vans and roll-off trucks. As conditioned, the facility is not permitted to receive packer trucks with garbage but could receive green waste in this form.

The time to challenge approval of UP 12-01 has expired. Because the applicant has not developed the site as approved per UP 12-01, the permit has not been effectuated and, similar to all other Use Permits, could become null and void for inaction. In this particular case, UP 12-01

¹ The staff report for the Project at the January 15, 2019, meeting, including attachments, can be found at https://www.yubacity.net/city_hall/boards_commissions/parks_recreation_commission/agenda_minutes/council_agenda_minutes/2019/01_15_2019, Agenda item 5, and are incorporated as attachments to this staff report by reference.

has received three extensions. Table 1 provides a timeline of UP 12-01:

Table 1: UP 12-01 Timeline⁽¹⁾

	Approved	Expiration Date
<i>Original approval</i>	July 23, 2014	July 23, 2016
<i>Extension 1</i>	August 24, 2016	July 23, 2018
<i>Extension 2</i>	June 13, 2018	July 23, 2020

(1) The table reflects the dates the Commission took action, not the date the extension was requested by the applicant.

Use Permit extension requests are forwarded to the Commission for consideration and no modifications to the original Conditions of Approval as stipulated by the Commission have been considered nor approved. Also worth noting is that similar to other LVTS, the Sutter-Yuba Local Enforcement Agency (LEA) is responsible for ensuring compliance with applicable State mandated requirements. As a LVTS, the LEA requires that the applicant submit periodic reports while also providing them the ability to issue warnings and citations.

In 2017, Dave Kuhnen, on behalf of RI, requested authorization to amend previously approved UP 12-01. The Applicant proposed to modify UP 12-01 and obtain a revised Large Volume Transfer/Processing Solid Waste Facility Permit (SWFP) to:

- Increase the maximum throughput from 100 tons per day (TPD) to 300 TPD of mixed waste and recyclables;
- Remove the 10 percent putrescible waste limit condition in UP 12-01. This removal would allow RI to receive waste that might contain more than 10 percent putrescible waste;
- Allow packer trucks to bring garbage to the subject site. Packer trucks are waste collection vehicles such as rear loaders, side loaders and front loaders. They are used primarily for the collection of waste that will be delivered to a disposal site for transfer, reprocessing, treatment or a landfill that is located off-site. These trucks are equipped with mechanized compaction abilities that allow the waste to be compressed or densified, thus allowing for greater route efficiencies. In the Yuba-Sutter Area, the current waste hauler uses front-loaders and side loaders as commercial compaction vehicles;
- Disallow packer trucks to deliver source separated residential and commercial green waste to the site;
- Expand the project site area from three to four acres through the addition of Assessor's Parcel 54-083-015;
- Add an inbound truck scale and modular scale-house/weighmaster office (approximately 700 square feet);
- Add, modify and abandon driveways;
- Relocate onsite an existing 1,800 square foot (sf) metal building that had been slated for demolition;
- Expand the proposed transfer and processing building from 18,000 sf to 21,600 sf; and,
- Merge APNs 54-083-014, 54-083-015 and 54-083-023.

As part of review of RI's request to amend UP 12-01, staff notified RI that it would need to retain, at their expense, a qualified environmental consultant to prepare the necessary subsequent environmental review documents pursuant to the California Environmental Quality Act (CEQA). RI selected, and the City approved, Clements Environmental. Upon receipt of the draft Subsequent Initial Study/Mitigated Negative Declaration (IS/MND), the City retained an independent consultant, Benchmark Resources, to peer review the Subsequent IS/MND regarding RI's proposed changes to UP 12-01.

Planning Commission Action:

At its meeting of November 28, 2018, the Planning Commission conducted a public hearing to consider the environmental assessment and the development permit. Following the staff presentation and public input, the Commission adopted the Subsequent IS/MND for EA 17-10, which states that with the recommended mitigation measures, the proposed modification of UP 12-01 would not create any significant environmental impacts. The Commission also approved DP 17-03 with a total of 58 conditions that enables Recycling Industries to modify its three-acre Large Volume Transfer/Processing Solid Waste Facility.

While the Commission approved the project, it significantly reduced the applicant's requested material volume to the amount that is presently permitted by UP 12-01. The Commission allowed the one-acre expansion to occur, and allowed for revisions to the site plan including the expansion of a 18,000 square foot building to 21,000 square feet, as well as several other restrictions. In the end, the additional conditions placed by the Commission on UP 17-05 are more restrictive than the previously approved UP 12-01, and provide an improved site layout for the project - and allows the applicant to expand its facility from three to four acres. The full Commission's staff report and supporting documents are included as Attachments to this staff report.

Appeal:

On December 7, 2018, an appeal of the Planning Commission's action approving the project was timely received by the City Clerk's office. The appeal was filed on behalf of Stop the Dump. The appeal cited two grounds (see appellant letter provided as Attachment 1):

1. The Commission "erred in voting to approve the project without recirculation of the Mitigated Negative Declaration ... because mitigation measures and [the] description of project operations were added;" and
2. The "revised Conditions of Approval still require bonding, and other methods to ensure proper enforcement need to be added so that the construction and operation of the revised Recycling Center is fully enforceable."

Environmental Determination:

Pursuant to California Environmental Quality Act (CEQA) Article 19, Section 15070(b)(1) an environmental assessment including an Initial Study and Subsequent Mitigated Negative Declaration (MND) and Mitigation Monitoring Program (MMP) was prepared for the project. Based upon the attached environmental assessment (EA 17-10), including the mitigation measures, all potentially significant impacts are reduced to less than significant. The findings of the Subsequent MND are that, with the previously-adopted mitigation measures for cultural resources, greenhouse gases, and traffic, the project will not create any significant impacts on the environment. As a result, the filing of a Subsequent MND is appropriate in accordance with the provisions of CEQA.

Appeal Analysis:

Regarding the appeal, staff offers the following:

Appellant comment #1: Regarding the allegation the Commission erred in voting to approve the project without recirculating the Subsequent Mitigated Negative Declaration because additional mitigation measures and the project description were added after initial circulation.

Staff response: The appellant's letter does not provide any details as to which mitigation measures or description of project operations were allegedly added or why those items would require recirculation. That being said, recirculation is not required by CEQA as the Use Permit and conditions approved were more stringent than those analyzed in the IS/MND, and were not mitigation measures or project revisions added to reduce a new, avoidable significant effect to insignificance. Further, the Planning Commission did not add these conditions of approval after determining that mitigation measures in the Subsequent MND were inadequate to ensure effects would be less than significant.

The project description originally utilized for the environmental document was based on the applicant's request. The environmental document analyzed that request and found that, with mitigation measures imposed, there were no potentially significant environmental impacts associated with the proposed expansion. While a reduced, smaller project than originally proposed was approved by the Commission, such reductions would serve to likewise reduce – not increase – impacts that were already less than significant with mitigation imposed.

The CEQA Guidelines explain that recirculation of a negative declaration is required if the negative declaration has been “substantially revised after public notice of its availability.” (14 C.C.R., § 15073.5(a).) The Guidelines expand on this language, explaining that:

- (b) A “substantial revision” of the negative declaration shall mean:
 - (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
 - (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.
- (c) Recirculation is not required under the following circumstances:
 - (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
 - (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.
 - (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
 - (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

The Commission added multiple conditions of approval for the project at the hearing. For example, the Commission limited the project to 100 tons of material per day, prohibited the queuing of vehicles, and required tires to be stored in a single bin no larger than 40 yards in size (these changes also resulted in corresponding changes to the description of project operations).

Notably, none of the Commission's conditions of approval were mitigation measures or project revisions added to reduce a new, avoidable significant effect to insignificance. Further, the Planning Commission did not add these conditions of approval after determining that mitigation measures in the Subsequent MND were inadequate to ensure effects would be less than significant. That is, the Planning Commission did not identify

any new significant effects that required new mitigation measures or project revisions or determine that proposed mitigation was inadequate, and no changes to the Subsequent MND were made or warranted.

As explained in the Subsequent MND, all environmental effects would be less than significant after incorporation of mitigation proposed in the Subsequent MND. The additional conditions of approval required by the Planning Commission will undoubtedly further reduce environmental effects, but no further mitigation was required by CEQA. Thus, the Planning Commission's incorporation of conditions of approval is consistent with the text in the CEQA Guidelines, explaining that recirculation is not required when: "Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect." (14 C.C.R., § 15073.5(c)(3).) Thus, the Planning Commission's conditions of approval (and corresponding changes to the project description) do not meet the definition of a "substantial revision" as found in the CEQA Guidelines, and recirculation was not required.

Appellant comment #2: The "revised Conditions of Approval still require bonding, and other methods to ensure enforcement needed to be added so that the construction and operation of the revised Recycling Center is fully enforceable." (Staff note: The appeal did not identify any no specific project conditions that needed bonding were identified in the appeal).

Staff response: Bonding is not a good solution in this case as bonds are typically for limited time periods to ensure that a requirement is fulfilled. For example, giving a land subdivider one year to finish various road improvements. If that subdivider does not complete these public improvements the City can utilize the bond money to finish the improvements. In the case of Recycling Industries, there are no public improvements that would need bonding.

Bonds can also be utilized for an ongoing operation such as is proposed but would be difficult to enforce and should only be utilized in extreme cases. For example, when a contaminated site needs cleaning up, bonds may be called in to ensure cleanup. The applicant has operated on this site for multiple years and, to staff's knowledge, a complaint has never been received regarding violations of any conditions or otherwise operating to the detriment of others, so enforcement of conditions or otherwise controlling any obnoxious type of operation has never been an issue.

The City already has adequate means to enforce the conditions of approval if and when conditions of approval or mitigation measures are violated or there are other obnoxious or hazardous conditions. Section 8-5.7108 of the Zoning Regulations, titled "Failure to comply with conditions" provides that "...a permit granted in accordance with this chapter may be revoked by the City Council (Section 8-5.7109) upon failure to comply with any conditions of the permit..." This process also allows the City Council to revise the original conditions of approval, if needed.

A second method of enforcement is also available. Section 8-5.7403 of the Zoning Regulations allows the Planning Director to enforce the rules of the Zoning Regulations via the infraction process, which typically result in fines being levied if voluntary compliance cannot be achieved. The City has code enforcement officers that provide this function on a daily basis.

To conclude, in this case there are two reasons that bonding is not needed. First, the applicant has operated for years at his location without causing any problems so there is no reason to suspect that will change. Even if there were such violations in the future, the City has adequate tools available to enforce the use permit without the need for bonding.

Environmental Determination:

Pursuant to California Environmental Quality Act (CEQA) Article 19, Section 15070 (b)(1) EA 17-10 was prepared which includes an Initial Study and a subsequent Mitigated Negative Declaration (MND) and Mitigation Monitoring Program.

Based upon the attached EA 17-10, including the mitigation measures, all potential significant impacts are reduced to less than significant. The findings of the MND are that, with the proposed mitigations for cultural resources, and greenhouse gases, and traffic, the project will not create any significant impacts on the environment. As a result, adoption of a Subsequent MND is appropriate in accordance with the provisions of CEQA.

Recommended Action:

Adopt the resolution, which includes all of the findings, adopts EA 17-10 (Subsequent MND), and approves U.P. 17-05, and D.P. 17-03 with the revised conditions as agreed upon by Recycling Industries and Stop the Dump.

Alternatives:

1. Direct staff to revise the resolution that further revises the conditions of approval
2. Approve the appeal, and deny E.A. 17-10, U.P. 17-05 and D.P. 17-03.

Prepared By:

/s/ Darin Gale

Darin Gale
Interim Development Services Director

Submitted By:

/s/ Steven C. Kroeger

Steven C. Kroeger
City Manager

Reviewed By:

Finance

City Attorney

RB

SLC by email

***Attachments:**

1. Resolution Of The City Council Of The City Of Yuba City Denying The Appeal Of, And Affirming The Decision Of, The Planning Commission's Approval Of Development Permit No. 17-03, Use Permit No. 17-05, And Environmental Assessment No. 17-10 (Subsequent Mitigated Negative Declaration), For Property Located At 140 Epley Drive (Recycling Industries, Inc.), And Independently Approving And Adopting Environmental Assessment No. 17-10 (Subsequent Mitigated Negative Declaration), Development Permit No. 17-03, And Use Permit No. 17-05, With Conditions

*The staff report for the meeting of January 15, 2019, including attachments, can be found at https://www.yubacity.net/city_hall/boards_commissions/parks_recreation_commission/agenda_minda_minutes/council_agenda_minutes/2019/01_15_2019, Agenda item 5, and are incorporated as attachments to this staff report by reference.

ATTACHMENT 1

Resolution Re Appeal (Recycling Industries, Inc.)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY DENYING THE APPEAL OF, AND AFFIRMING THE DECISION OF, THE PLANNING COMMISSION'S APPROVAL OF DEVELOPMENT PERMIT NO. 17-03, USE PERMIT NO. 17-05, AND ENVIRONMENTAL ASSESSMENT NO. 17-10 (SUBSEQUENT MITIGATED NEGATIVE DECLARATION), FOR PROPERTY LOCATED AT 140 EPLEY DRIVE (RECYCLING INDUSTRIES, INC.), AND INDEPENDENTLY APPROVING AND ADOPTING ENVIRONMENTAL ASSESSMENT NO. 17-10 (SUBSEQUENT MITIGATED NEGATIVE DECLARATION), DEVELOPMENT PERMIT NO. 17-03, AND USE PERMIT NO. 17-05, WITH CONDITIONS

WHEREAS, Recycling Industries (applicant) currently operates a recycling center under Use Permit (UP) 07-12 at 140 Epley Drive; and

WHEREAS, in 2014, the City approved Use Permit (UP) 12-01, which allowed the applicant to convert its recycling center into a Large Volume Transfer Station (LVTS); and

WHEREAS, prior to said approval the City also prepared an environmental assessment as required by the California Environmental Quality Act (CEQA) resulting in a finding of a mitigated negative declaration (MND) per Environmental Assessment (EA) 12-2 (2014 MND); and

WHEREAS, the applicant has yet to develop the site as approved per UP 12-01, and has received two extensions from the City such that use under the UP 12-01 must commence by no later than July 23, 2020, or UP 12-01 could become null and void for inaction; and

WHEREAS, the applicant is proposing to modify its previously approved use of the property to a revised Large Volume Transfer/Processing Solid Waste Facility Permit (SWFP); and

WHEREAS, said revisions require a Development Permit (DP), UP and appropriate Environmental Assessment (EA) of the project; and

WHEREAS, applicant submitted an application to the City for DP 17-03, UP 17-05, and EA 17-10; and

WHEREAS, an initial study was prepared for the project, resulting in a proposed Subsequent MND; and

WHEREAS, the City issued a notice of intent to adopt the Subsequent MND on November 16, 2018, and provided a review period regarding the proposed mitigated negative declaration; and

WHEREAS, under the City's Municipal Code, the Yuba City Planning Commission is authorized to review and approve the Development Permits, Use Permits and environmental assessments for associated projects on behalf of the City; and

WHEREAS, the City provided notice of the Planning Commission hearing as required by law; and

WHEREAS, the Planning Commission received and reviewed DP 17-03, UP 17-05, and EA 17-10 at a duly noticed meeting on November 28, 2018; and

WHEREAS, a public hearing was held, and the public was provided an opportunity to comment on DP 17-03, UP 17-05, and EA 17-10; and

WHEREAS, public testimony and evidence, both written and oral, was considered by the Planning Commission; and

WHEREAS, as part of this review, the Planning Commission also conducted an assessment of the proposed project as required by CEQA; and

WHEREAS, after considering all public testimony and receiving information provided to date, the Planning Commission closed public testimony and granted, with modified conditions of approval, DP 17-03 and UP 17-05, as well as EA 17-10; and

WHEREAS, said adoption also included approval of a subsequent Mitigated Negative Declaration to the 2014 MND and its initial study (Subsequent MND) for the project, consistent with CEQA Guidelines section 15162, as set forth in EA 17-10; and

WHEREAS, on December 7, 2018, an appeal of the Planning Commission's action on approving the project was timely made on behalf of "Stop the Dump" and received by the City Clerk's office; and

WHEREAS, the City provided notice of the City Council hearing on the appeal as required by law; and

WHEREAS, on January 15, 2019, the City Council received and reviewed the appeals of the Planning Commission's decision granting UP 17-05 and EA 17-10 at a duly noticed meeting; and

WHEREAS, a public hearing was held, and the public was provided an opportunity to comment on the appeal of the Planning Commission decision; and

WHEREAS, public testimony and evidence, both written and oral, was considered by the City Council; and

WHEREAS, after considering all public testimony and receiving information provided to date, the City Council closed public testimony and deliberated on the appeal based on the evidence in the administrative record; and

WHEREAS, after consideration of public testimony and information in the record, the City Council determined that after including the modified Conditions of Approval as supported by Appellant Stop the Dump, and accepted by applicant Recycling Industries, there was substantial evidence in the record that the UP complied with the City's Municipal Code and that there was no evidence of new significant environmental effects, as documented in the Subsequent MND; and

WHEREAS, the City Council continued consideration of the appeal and project until the next regularly scheduled City Council meeting, so as to also concurrently consider the appeal of DP 17-03 regarding the Project; and

WHEREAS, on February 5, 2019, the City Council held a duly-noticed hearing to consider the appeal of DP 17-03, UP 17-05, and EA 17-10; and

WHEREAS, a public hearing was held, all documents and comments from the January 15, 2019, were incorporated into the record, and the public was provided an opportunity to comment on the appeal and the project; and

WHEREAS, after considering all public testimony and receiving information provided to date, the City Council closed the public hearing and deliberated on the appeal based on the evidence in the administrative record; and

WHEREAS, after consideration of said public testimony and information in the record, the City Council determined that there was substantial evidence in the record that the project complied with the City's Municipal Code and requirements for issuance of a Development Permit and User Permit for the operations as proposed; and

WHEREAS, the City Council did not find any substantial evidence in the record that DP 17-03 or UP 17-05 failed to comply with specific requirements of the City's Municipal Code as applicable, or which would require overturning the Planning Commission decision and denial of either DP 17-03 or UP 17-05; and

WHEREAS, the City Council also determined that the proposed project will not result in any adverse effects which fall within the "Mandatory Findings of Significance" contained in Section 15065 of the State CEQA Guidelines, and with the mitigation imposed, there is no substantial evidence in the record that this project will have any direct, indirect or cumulative significant effects on the environment; and

WHEREAS, the City Council now desires to deny the appeal and uphold the decision of the Planning Commission to approve DP 17-03, UP 17-05, and EA 17-10 as further conditioned; and

WHEREAS, the City Council desires to approve and adopt Environmental Assessment No. 17-10 (Subsequent Mitigated Negative Declaration), Development Permit No. 17-03, and Use Permit No. 17-05, as further conditioned.

BE IT RESOLVED AND ORDERED BY THE CITY COUNCIL OF THE CITY OF YUBA CITY AS FOLLOWS:

Section 1. Recitals. The City Council finds that all of the facts set forth in the recitals above of this Resolution are true and correct and incorporated herein.

Section 2. Administrative Record. The proceedings and all evidence introduced before the Planning Commission at the public hearing, including staff reports, attachments, and presentations, are hereby incorporated into the record of this proceeding. These documents, along with any staff reports, documents, testimony or evidence submitted to the City Council, including all documents specified under applicable State law including Public Resources Code section 21167.6(e), shall comprise the entire record of proceedings for any claims under CEQA.

Section 3. CEQA Findings.

- A. Subsequent MND. Pursuant to the authority and criteria contained in CEQA, the City, as the Lead Agency, has analyzed the proposed project and has prepared a Subsequent MND to the approved 2014 MND in order to evaluate the changes to the previously-approved project proposed by DP 17-03 and UP 17-05, (the foregoing collectively referred to herein as the proposed modified project) and to determine whether substantial changes in circumstances surrounding the property and the approved project per UP 12-10 (if any), and new information of substantial importance (if any), require further analysis under CEQA. The City Council also finds:
- i. No substantial changes are proposed in the project that will require major revisions of the 2014 MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - ii. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.
 - iii. There is no new information, which was not known and could not have been known at the time of the 2014 MND that the project will have significant effect not discussed in the 2014 MND.

The City Council has fully considered the original MND and the Subsequent MND, and finds that DP 17-03 and UP 17-05 are consistent with, and have been fully assessed by, the Subsequent MND, and that DP 17-03 and UP 17-05 are permits anticipated for the proposed modified project in the Subsequent MND, and are consistent with the purpose and intent of the Subsequent MND, and that the approval of EA 17-10 regarding said Subsequent MND by the Planning Commission was likewise consistent and appropriate. In this regard, based on the Council's independent judgement and analysis and record before it, the Council additionally finds as follows:

- i. The Subsequent MND reflects the Council's independent judgement and analysis;
- ii. The project mitigation -imposed, as described in the Initial Study and supporting documents, will avoid any potentially significant effects to a point where no significant adverse impact on the environment will occur, and there is no substantial evidence in the record that this project may have any direct, indirect or cumulative effects on the environment that are potentially significant and adverse.
- iii. The proposed project, as modified after the appeal, will not result in any adverse effects which fall within the "Mandatory Findings of Significance" contained in Section 15065 of the State CEQA Guidelines.
- iv. The mitigation measures described and specifically identified in the Mitigation Monitoring and Reporting Program are feasible and shall become binding upon the entity (such as the project applicant or the City) assigned thereby to implement the particular mitigation measures as identified in the Mitigation Monitoring and Reporting Program.

The City Council finds and determines that there is substantial evidence in the administrative record to support the Planning Commission determination that the project has been adequately environmentally assessed as required by CEQA per EA 17-10. Additionally, the City Council also finds and determines that in light of the entire

administrative record and the substantial evidence before it, the project has been adequately environmentally assessed as required by CEQA per EA 17-10.

- B. Findings Regarding Recirculation: The Council further finds recirculation is not required by CEQA as the Development Plan, Use Permit and conditions approved were more – not less - stringent than those analyzed in the Subsequent MND, and were not mitigation measures or project revisions added to reduce a new, avoidable significant effect to insignificance. Further, the Planning Commission did not add these conditions of approval after determining that mitigation measures in the Subsequent MND were inadequate to ensure effects would be less than significant.

The project description originally utilized for the environmental document was based on the applicant's request. The environmental document analyzed that request and found that, with mitigation measures imposed, there were no potentially significant environmental impacts associated with the proposed expansion. While a reduced, smaller project than originally proposed was approved by the Commission, such reductions would serve to likewise reduce – not increase – impacts that were already less than significant with mitigation imposed.

The CEQA Guidelines explain that recirculation of a negative declaration is required if the negative declaration has been “substantially revised after public notice of its availability.” (14 C.C.R., § 15073.5(a).) The Guidelines expand on this language, explaining that:

- (b) A “substantial revision” of the negative declaration shall mean:
 - (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
 - (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.
- (c) Recirculation is not required under the following circumstances:
 - (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
 - (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.
 - (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA , which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
 - (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.

The Commission added multiple conditions of approval for the project at the hearing below. Notably, none of the Commission's conditions of approval were mitigation measures or project revisions added to reduce a new, avoidable significant effect to insignificance. Further, the Planning Commission did not add these conditions of approval after determining that mitigation measures in the Subsequent MND were inadequate to ensure effects would be less than significant. That is, the Planning Commission did not identify any new significant effects that required new mitigation measures or project revisions or determine that proposed mitigation was inadequate, and no changes the Subsequent MND were made or warranted.

As explained in the Subsequent MND, and as the Council finds, all environmental effects would be less than significant after incorporation of mitigation proposed in the Subsequent MND, as the project is currently conditioned by the City Council. The additional conditions of approval required by the Planning Commission will further reduce environmental effects, but no further mitigation was required by CEQA. Thus, the Planning Commission's incorporation of conditions of approval is consistent with the text in the CEQA Guidelines, explaining that recirculation is not required when: "Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect." (14 C.C.R., § 15073.5(c)(3).) Thus, the Planning Commission's conditions of approval (and corresponding changes to the project description) do not meet the definition of a "substantial revision" as found in the CEQA Guidelines, and the City Council finds that recirculation was and is not required.

Likewise, with regard to the conditions of approval further modified by the City Council, the Council further finds recirculation is not required by CEQA as the Development Plan, Use Permit and conditions approved were more – not less - stringent than those analyzed in the Subsequent MND, and were not mitigation measures or project revisions added to reduce a new, avoidable significant effect to insignificance. Further, the City Council has not added these conditions of approval after determining that mitigation measures in the Subsequent MND were inadequate to ensure effects would be less than significant. As such, and consistent with the analysis as noted above and the record as a whole, the City Council finds that recirculation is not required.

Section 4. Adoption of Subsequent MND and Mitigation Monitoring and Reporting Program. Based on the foregoing, the City Council hereby adopts the Subsequent Mitigated Negative Declaration (EA 17-10) for the project, including the associated mitigation monitoring and reporting program, as the project will not result in any significant, adverse, environmental impacts with the mitigation imposed. The Department of Development Services located at Yuba City Hall at 1201 Civic Center Blvd., Yuba City, CA 95993 shall serve as the custodian of all documents or other material which constitutes the record of proceedings upon which the Council's adoption of this Subsequent Mitigated Negative Declaration is based. The Council authorizes and directs the Director of the Department of Development Services, or designee, to execute and file with the Sutter County Clerk, a Notice of Determination for the approval of the project that complies with the CEQA Guidelines.

Section 5. Findings Regarding UP. The City Council finds and determines that there is substantial evidence in the administrative record to support the City Council's review of the Planning Commission's adoption of revised conditions, as further amended by the City Council, as conditioned, is consistent with the requirements of the Municipal Code requirements applicable to the UP. Additionally, the City Council also finds and determines that there is substantial evidence in the entire administrative record that the UP, as conditioned, is consistent with the requirements of the Municipal Code requirements applicable to the UP. The City Council further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:

A. The proposal is consistent with the General Plan.

Basis for Finding: The property is zoned Industrial District (M-2) which is consistent with the existing General Plan designation of Manufacturing, Processing, and Warehousing.

The M-2 district permits recycling and collection facilities (including a LVTS) subject to the issuance of a Use Permit by the Commission.

- B. The site for the proposed use is adequate in size and shape to accommodate said use, public access, parking and loading, yards, landscaping, and other features required by the Municipal Code.

Basis for Finding: Under the revised project, the site has been increased from three to four acres. The expanded site will allow improved circulation and queuing, and will be adequate to accommodate the proposed LVTS facility and related operations. The proposed site plan is in conformance with the Zoning Regulations with perimeter landscaping and fencing, and will include the necessary site improvements to allow for a safe and efficient operation. Utilized areas of the site will be paved, directional signage will be provided, and stormwater runoff will be controlled. Truck loading docks will be provided to allow efficient transfer of material and prevent potential impacts to off-site circulation. The proposed flow of vehicle and truck traffic entering and exiting the site will minimize the potential for vehicular conflicts while allowing for a safe and efficient flow of traffic and facility use. The site has sufficient on-site space to prevent trucks from queuing on the public right-of-way in the event of a surge of visiting trucks to the site. To ensure that there is safe and efficient traffic movement at the site, the applicant is required to have an on-site traffic management plan as part of the Transfer/Processing Report document and will employ spotters to direct traffic. This will ensure that during material receiving hours, facility personnel will monitor and direct incoming traffic.

- C. The streets serving the site are adequate to carry the quantity of traffic generated by the proposed use.

Basis for Finding: The applicant is proposing to expand the facility from 100 tons per day (TPD) to a 300 TPD, however the Planning Commission, and City Council on appeal, have limited the maximum to 100 TPD. Regardless, traffic will increase in comparison to what exists today, however this increase was previously assessed per the 2014 MND for UP 12-01.

Estimated truck activity and employee travel associated with the project will occur while the facility is open from to refuse/waste from 7 a.m. – 5 p.m., Monday through Saturday with ancillary operations from 6 a.m. – 9 p.m., Monday through Saturday
Truck activity is expected to be relatively uniform across that period, but somewhat less truck travel is expected in the evening as the plant begins to wind down for the day.

- The project, as modified, will not reach the City's significance threshold. D. The site design and size and design of the buildings will complement neighboring facilities.

Basis for Finding: The design of the site meets the requirements of the Zoning Regulations relative to the provision of adequate parking and shading and buffer landscaping. The applicant is proposing to construct a new 21,600 sf transfer/processing building. The proposed building will be similar in size and design to the buildings built immediately to the south. The proposed building will be compatible with other nearby industrial buildings and will ensure that the proposed business operations are kept inside an enclosed space. Presently the project site is surrounded by a six-foot high chain-link fence and landscaping.

- E. The establishment or operation of the use or building applied for will not be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the vicinity of the proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Basis for Finding: The project site is suited for a LVTS. The surrounding uses are industrial in nature, while the nearest homes are located approximately 1,900 lineal feet from the site, thus the operation of the LVTS facility will not be detrimental or injurious to property or improvements in the neighborhood. As detailed in the Subsequent MND and the Transfer Processing Report (TPR), the proposed LVTS must incorporate multiple components to ensure its compatibility with the surrounding properties. These components, which are mandated by the State's application process, include:

- i. Station Control Plan which addresses:
 - Nuisance controls (i.e. daily cleanup of the site);
 - Dust control measures to mitigate on-site dust;
 - Vector and bird control measures to prevent these items from becoming nuisances;
 - Litter control measures;
 - Noise control measures;
 - Odor control measures; and,
 - Traffic control measures.
- ii. Records and Reporting Plan which addresses the types of on-going reporting required for the operation of the LVTS. This includes:
 - Employee training program;
 - Facility self-inspection program;
 - Health and safety program;
 - Hazardous waste reporting program;
 - Public complaint log; and,
 - A monitoring and inspection schedule report.

As the project is considered a Large Volume Transfer Station, the County of Yuba Environmental Management Department, Environmental Health Division (LEA), will be responsible for ensuring the project complies with all applicable State mandated requirements. Given this designation, the applicant will be responsible for monthly reporting to the LEA to ensure compliance with State requirements. Additionally, the LEA will also be responsible for enforcement of all local restrictions placed on the proposed use which includes key elements that ensure the compatibility of the use with the surrounding properties.

- F. The application satisfies at least one of the findings found in Title 6, Chapter 9, Article 6 of the Municipal Code.

Basis for Finding. Municipal Code Section 6-9.602. - Permits and entitlements, identifies findings including:

(a)The facilities of the State plan of flood control or other flood management facilities protect the property to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in

nonurbanized areas;

(b) The City has imposed conditions on the permit or discretionary entitlement that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas;

(c) The local flood management agency has made adequate progress (as defined in California Government Code § 65007) on the construction of a flood protection by 2025 system that will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system;

(d) The property in an undetermined risk area has met the urban level of flood protection based on substantial evidence in the record;

(e) The property is located in an area of potential flooding of three feet or less from sources other than local drainage or potential flooding from local drainage that meets the criteria of the national Federal Emergency Management Agency standard of flood protection; or

(f) The property is located within a watershed with a contributing area of ten or fewer square miles, as determined by the City.

This project complies with this finding as the Sutter Butte Flood Control Agency (SBFCA) is the "Local Flood Management Agency" for the Sutter-Butte Basin and as such, has the responsibility to prepare an annual report demonstrating adequate progress as defined in California Government Code Section 65007(a). SBFCA has prepared Adequate Progress Report Updates for ULOP and transmitted them to the Central Valley Flood Protection Board.

Section 6. Findings Regarding DP. The City Council finds and determines that there is substantial evidence in the administrative record to support the Planning Commission determination that the DP, as conditioned, is consistent with the requirements of the Municipal Code requirements applicable to the DP. Additionally, the City Council also finds and determines that there is substantial evidence in the entire administrative record that the DP, as conditioned, is consistent with the requirements of the Municipal Code requirements applicable to the DP. The City Council further approves, accepts as its own, incorporates as if set forth in full herein, and makes each and every one of the findings, based on the evidence in the record, as follows:

- A. The site for the proposed use is adequate in size and shape to accommodate said use, public access, parking and loading, yards, landscaping, and other features required by the Municipal Code.

Basis for Finding: See Basis for Finding in Section 5(B), which is incorporated herein as if set forth in full.

- B. The streets serving the site are adequate to carry the quantity of traffic generated by the proposed use.

Basis for Finding: See Basis for Finding in Section 5(C), which is incorporated herein as if set forth in full.

- C. The site design and size and design of the buildings will complement neighboring

facilities.

Basis for Finding: See Basis for Finding in Section 5(D), which is incorporated herein as if set forth in full.

- D. The application satisfies at least one of the findings found in Title 6, Chapter 9, Article 6 of the Municipal Code.

Basis for Finding: See Basis for Finding in Section 5(F), which is incorporated herein as if set forth in full.

Section 7. Appeal Denied. For all the foregoing reasons, and each of them, the City Council finds that there was no substantial evidence submitted into the administrative record that would warrant denial of either the DP or UP, including the CEQA for the project, as conditioned during the public hearing and appeal process. As such, the appeal is denied in its entirety.

Section 8. Use Permit Approved. For all the foregoing reasons, and each of them, the City Council upholds, after adding addition conditions, the Planning Commission approval of Use Permit 17-05, as further conditioned by the City Council. Further, for all of the foregoing reasons and based upon the substantial evidence in the record before it, and given that after the conditions and restrictions added by the Planning Commission and after the appeal, there is no substantial evidence in the administrative record that would warrant denial, the City Council also independently approves Use Permit 17-05 as further conditioned by the City Council as set forth in Exhibit "A."

Section 9. Development Permit Approved. For all the foregoing reasons, and each of them, the City Council upholds the Planning Commission approval of Development Permit 17-03, as further conditioned by the City Council. Further, for all of the foregoing reasons and based upon the substantial evidence in the record before it, and given that there is no substantial evidence in the administrative record that would warrant denial, the City Council also independently approves Development Permit 17-03 as further conditioned as set forth in Exhibit "A."

Section 10. Effective Date. This Resolution shall become effective immediately.

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 5th day of February, 2019.

AYES:

NOES:

ABSENT:

ATTEST:

Shon Harris, Mayor

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

SHANNON CHAFFIN, City Attorney
Aleshire & Wynder, LLP

EXHIBIT A CONDITIONS OF APPROVAL

Indemnification:

1. The applicant, operator, and/or property owner ("Applicant" herein) is required to enter into an agreement with the City agreeing to indemnify, defend, and hold harmless the City of Yuba City, its officers, attorneys, agents, employees, departments, commissioners, authorized volunteers, and boards ("City" herein) against any and all liability, claims, actions, causes of action or demands whatsoever against them, or any of them, before administrative or judicial tribunals of any kind whatsoever, in any way arising from, the terms and provisions of this land use approval, including without limitation any California Environmental Quality Act (CEQA) approval or any related development approvals or conditions whether imposed by the City, or not, except for City's sole active negligence or willful misconduct. This indemnification condition does not prevent the Applicant from challenging any decision by the City related to this project and the obligations of this condition apply regardless of whether any other permits or entitlements are issued. The land use approval shall not become effective until Applicant executes a "Covenant to Indemnify."
 - a. Insurance – Applicant shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this use under this entitlement adequate insurance for the proposed project as deemed necessary by a third-party waste management field expert as chosen by the Applicant. Any fee incurred by the City to receive the third-party recommendation will be paid by Applicant within 30 days. Such policy or policies shall be without any deductible amount (except as may be expressly authorized by the City), and shall be issued by companies authorized to do business in the state of California shall specifically protect City by naming City as additional insureds on the policies. The Applicant shall forward to the City updated certificates of insurance and endorsement(s) when policies are renewed or changed. The insurance required shall not be interpreted to relieve the Applicant of any other obligations or conditions of approval. The Applicant shall remain fully liable for all deductibles and amounts in excess of the coverage actually realized.
2. In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

Materials:

3. The facility shall not receive more than 100 tons per day.
4. The facility shall only receive material generated within the Sutter and Yuba Counties.
 - a. Applicant will maintain logs showing location of waste received and shipped and provide copies of such logs once every ninety days to City.
5. Putrescible material: maximum of 10 percent of all material. Material shall be removed within 48 hours.
6. The facility shall not accept, store, or process:
 - a. Hazardous Material
 - b. Biohazardous Material
 - c. Medical Waste

If any of the above waste (hazardous, biohazardous or medical) is dumped illegally at the site, the operator shall take necessary steps to properly handle and dispose of such items listed.

7. Tires: Shall be stored in a bin no larger than 40 yards in size. A maximum of one tire bin shall be at the facility at any given time.
8. Green Waste:
 - a. No green waste shall be accepted via a packer truck, including side, front, or rear loaders.
 - b. Self-haul green waste may be accepted and processed.
 - c. Green Waste shall be removed within 48 hours of being accepted.
9. Pallets: Shall not be stacked taller than 6 feet in height outdoors.

Delivery of Material:

10. Except for source separated curbside recyclables, material may not be accepted via packer trucks. This includes side, front, or rear loaders.
11. Roll off bins of up to 50 yards may be accepted
12. The facility is closed Sunday. The facility is open from to refuse/waste from 7am – 5pm, Monday through Saturday with ancillary operations from 6am – 9pm, Monday through Saturday.

Storage:

13. All utilized areas, including storage areas, shall be paved.
14. Bundled, packaged, and/or palletized material shall be stored on paved areas.

Vector Control:

15. Operator shall follow all controls listed in Section 5.5 of Transfer/Processing Report (TPR).

Noise:

16. Operator shall contract with an independent acoustical engineer to measure noise being generated by the facility within 10 working days as requested by the City. Should noise levels exceed adopted City standards, said noise levels shall be reduced to acceptable levels within 24-hours. Noise levels shall not exceed City standards as measured at the property line.

Odor Control:

17. Operator shall comply with all provisions listed in Section 5.4 of TPR
18. Trucks shall be washed weekly off-site or on-site where solids in water can be captured before entering the City stormwater system. City-approved industrial cleaning facilities shall be specified as approved locations for washing, if such cleaning facilities are incorporated within City limits

Queuing:

19. All queuing of vehicles must be maintained on the Applicant's property. All employee vehicles must be parked on the Applicant's property.

There shall be no stacking and/or queuing of vehicles entering the facility and/or waiting to access the scale on the public right-of-way. "Public right of way" shall include Epley Drive, Garden Highway, Putman Avenue, Burns Drive, Hasset Avenue, and any alleys over which a public right of way has been retained.

Vehicles shall not be directed to leave the facility to avoid queuing; rather operational changes shall be implemented within 24 hours of notification by the City.

Processing:

20. All processing, sorting, compacting, shredding, baling, crushing, etc. of solid waste destined to a landfill shall occur indoors.
21. All green waste shall be stored indoors unless contained in a roll-off container and covered.
22. Storage of roll off bins destined to be dumped and processed at the site shall be properly covered, unless stored indoors.
23. During construction, contractor vehicles must be parked on Applicant's property, except to the extent to accommodate concrete, paving and asphalt work occurring on the property. Such work will be completed within 60 days, unless expressly approved by the Public Works director..

Litter Control:

24. Litter control shall be implemented as described in section 4.11.2 of the TPR report.

25. The transfer station operator shall manage the facility in such a manner that confines litter to the work area, which prevents litter from accumulating on other parts of the site and which prevents litter from being blown off the site.
26. The transfer station operator shall implement a program requiring transfer station users to securely containerize their load to avoid littering. The program shall be subject to the approval of the City.
27. Under windy conditions, the transfer station operator shall cover the refuse with City approved cover materials as often as necessary to control blowing litter. Other options shall be considered as necessary, including the alignment of unloading areas away from the prevailing wind direction.
28. The transfer station operator shall install portable litter fencing in the work area to intercept wind-blown debris.
29. The transfer station operator shall remove litter from the litter fencing and planting screens at least once a day. On site access areas shall be policed at least daily. The City may require more frequent policing to control the accumulation of litter.
30. The transfer station operator shall provide weekly (or more frequent) litter clean up along City right-of-way to and from the facility. The City may modify the frequency of clean up and/or area of coverage. If wind-blown litter from the transfer station reaches other properties, the Public Works Director may require the transfer station operator to remove the litter and the Director may require the operator to institute additional measures to prevent recurrence of the problem.
31. Paved roadways proximate to the site shall be cleaned as necessary when soil material has been carried by patrons of the facility onto public roadways. If the operator fails to do so upon notice, the City may clean the roadway at the operator's expense.
32. The transfer station operator shall post signs, as determined necessary by the City, along access roads to the transfer station noting littering and illegal dumping laws. The operator shall periodically publish these laws and operation hours in mailings postings, pamphlets or any advertisement, electronic or otherwise.
33. The transfer station operator shall post signs at the transfer station entrance noting the hours of operation.

Posting of Signs:

34. The transfer station operator shall post signs, at their expense, notifying patrons of littering regulations and the need to properly tarp their vehicles to minimize debris from exiting the vehicle onto the roadway and/or neighboring sites.

Host Fee:

35. Prior to use of the new building, the applicant will negotiate a "host Fee" with the City.. The Host Fee will be calculated based upon the amount of garbage that is ultimately transferred to the Landfill by the applicant.
 - a. Authorize the Community Development Director (or his designee) to approve minor technical amendments to the project Transfer Processing Report that do

not alter any Conditions of Approval, as necessary to accommodate final approval from the State of California.

- b. Any requests for modifications must be submitted to City Council for approval, if consistent with City Ordinances then in effect. Authorize the Community Development Director (or his designee) to provide all necessary approvals, which do not modify the conditions, required to obtain final approval from the State of California for the proposed Large Volume Transfer Station.

Public Works:

36. To help contain fugitive dust, construction sites shall be watered down during the construction phase of the project or as directed by the Public Works Department.
37. The applicant, at their expense, shall be solely responsible for all quality control associated with the project. The quality control shall include, but is not limited to, the following: survey work, potholing existing utilities, all geotechnical testing, soil reports, concrete testing, asphalt testing, and any other required special testing/inspections. The City will only perform necessary testing to insure compliance.
38. Storage of construction vehicles/material is not allowed in the travel way.
39. The improvement plans for the development of the subject property shall include all measures required to ensure that no drainage runoff resulting from the development of the property flow onto the adjacent lands or impede the drainage from those properties. The rear yards and/or side yards of the parcel shall have the same finish grade elevation as those lots within tolerances as approved by the Public Works Department. If retaining walls are required they shall be constructed of concrete or masonry block.
40. The contractor shall obtain an Encroachment Permit from the City prior to performing any work within public rights of way.
41. The Developer shall place, within the property boundary, an in-line separator on the storm drain line prior to the point of connection to the storm drain line in the City right-of-way. Property owner shall be responsible for all maintenance of the system.
42. Required Improvement Plan Notes:
 - a. "Any excess materials shall be considered the property of the contractor/owner and shall be disposed of away from the job site in accordance with applicable local, state and federal regulations."
 - b. "During construction, the Contractor shall be responsible for controlling noise, odors, dust and debris to minimize impacts on surrounding properties and roadways. The Contractor shall be responsible that all construction equipment is equipped with manufacturers approved muffler baffles. Failure to do so may result in the issuance of an order to stop work."
 - c. "If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Sutter County Environmental Health Department, the Fire Department, the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies."
 - d. "The Contractor(s) shall be required to maintain traffic flow on affected roadways during non-working hours, and to minimize traffic restriction during construction."

The Contractor shall be required to follow traffic safety measures in accordance with the CalTrans "Manual of Traffic Safety Controls for Construction and Maintenance Work Zones." The City of Yuba City emergency service providers shall be notified, at least two working days in advance, of proposed construction scheduled by the contractor(s)."

- e. "Soil shall not be treated with lime or other cementitious material without prior express permission by the Public Works Department."
43. Prior to paving, the Developer shall vacuum test all manholes to ensure no leakage will occur.
44. The curb, gutter, sidewalk, and lot drainage shall be inspected and approved by the City. Any curb, gutter and sidewalk which is not in accord with City standards or is damaged before or during construction, shall be replaced. All sidewalks along the City right-of-way shall be free of any non-control joint cracking. In addition, any concrete with cracks, chips, blemishes, and spalling greater than an inch in diameter shall be replaced from control joint to control joint.
45. The property shall petition for formation of a Zone of Benefit of the Yuba City Lighting Maintenance District for the purpose of maintaining the street lights. The Engineering Division shall be reimbursed actual costs associated with the formation of the district.
46. All public street lighting shall be dedicated to the City of Yuba City.
47. Cross easements over all property not occupied by buildings shall be reserved in deeds for all underground utilities, ingress and egress, parking, drainage, landscaping, and the maintenance thereof to the benefit of all parcels involved in the division.
48. Prior to the issuance of a building permit, the property owner shall merge the parcels in to one parcel, or shall relocate the property lines between the parcels so they do not bisect any buildings.
49. The project, including phased improvements, shall comply with the City's Storm water Management and Discharge Control Ordinance (Title 4, Chapter 21 of the Yuba City Municipal Code).
50. Prior to the issuance of a building permit, the applicant shall provide evidence that a Notice of Intent has been submitted and received by the local Water Quality Control Board for a General Construction Activity Storm Water Permit. Two copies of the project Storm Water Pollution Protection Plan shall be provided to the City.
51. Prior to obtaining final occupancy approval, the applicant shall provide, to the Public Works Director, the name and contact information of the individual(s) who will be responsible for cleaning any debris in the City right-of-way resulting from the transfer station's operations.
52. Applicant to contact the State Water Resources Control Board to determine industrial general permit compliance.

Fire Department:

53. Obtain necessary permits from the Yuba City Fire Department.

CalRecycle:

54. Comply with letter November 5, 2018 and subsequent correspondence between CalRecycle and Larry Miner.

Feather River Air Quality Management District:

55. Comply with letter dated November 6, 2018 and subsequent correspondence between the FRAQMD and Larry Miner.

Sutter-Yuba Local Enforcement Agency:

56. Comply with letter dated November 5, 2018 and subsequent correspondence between the LEA and Larry Miner.

Central Valley Regional Water Quality Control Board:

57. Comply with letter dated October 30, 2018

Planning Commission Meeting Condition:

58. The mitigation measures identified in the initial study and mitigated negative declaration, which also include Appendix A of the Transfer Processing Report Assessment, shall be included as mitigation measures.

Additional Conditions

59. PROJECT DEADLINES: To prove good faith in completing this project in a timely manner, and to acknowledge that time is of the essence, the applicant must commence construction by March 31, 2020, and be substantially complete within 18 months of commencement. Failure to comply with either deadline will void modification of this Use Permit. Substantially complete is defined by City Code.
60. FUTURE USE PERMIT MODIFICATIONS AND EXTENSIONS:
 - a. Given the repeated extensions of Use Permit 12-01, the City advises the Applicant future attempted modifications of this Use Permit will be, if consistent with City Ordinances then in effect, submitted to the City Council for review.
 - b. Additionally, if the Applicant fails to meet project deadlines outlined in Condition 59, the previous Use Permit 12-01 will not be eligible for extension and will expire if not effectuated.
 - c. City staff must notify Stop the Dump of the receipt of any applications for modification of this Use Permit when received and afford STD a minimum of 20 days to respond and request the opportunity to reply. Notice is presumed to have been properly provided to STD if mailed, emailed, faxed, or personally delivered to:

Bridgit Barnes, Esq.
Brigit S. Barnes & Associates, Inc.

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