

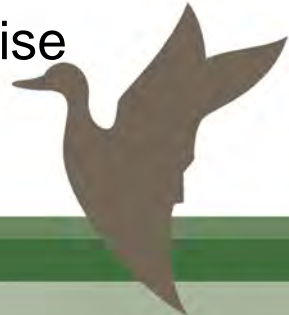


City Council Meeting | Jan. 15, 2019

Procedural Item:

In making a decision, the options for the Council are:

- Uphold the decision of the Planning Commission and deny the appeal; or
- Approve the appeal and deny the Use Permit (the previous use permit 12-01 would remain in force); or
- Approve the appeal and add, subtract, or otherwise modify the conditions of the new use permit.



Recycling Industries:

- Recycling Industries, Inc. (RI) requested authorization to amend and expand a previously approved Use Permit
- Project includes a
 - Use Permit (UP)
 - Development Plan (DP)
 - Environmental Assessment



RI Proposal

- RI is proposing to expand a Large Volume Transfer/Processing Solid Waste Facility
 - Expand from 3 to 4 acres
 - Increase maximum daily intake from 100 to 300 tons per day
 - No limitation on deliveries (self-haul and commercial packer trucks)
 - New 21,600 square foot (s.f.) building (vs. a previously approved 18,500 s.f. building)



Site Map



Aerial photo/Map



Site History

The first use permit was approved in Feb. 2008

- Use Permit 07-12
 - 3 acres
 - 5 metal buildings
 - Recycling facility
- Applicant is currently operating under this Use Permit



Use Permit 12-01

(Not yet effectuated but valid until July, 2020)

- Approved in June 2014
- Established a Large Volume Transfer Station (LVTS)
- Removal of 2 buildings & construction of a new 18,500 s.f. building
- 100 tons or less per day of mixed recyclables and solid waste



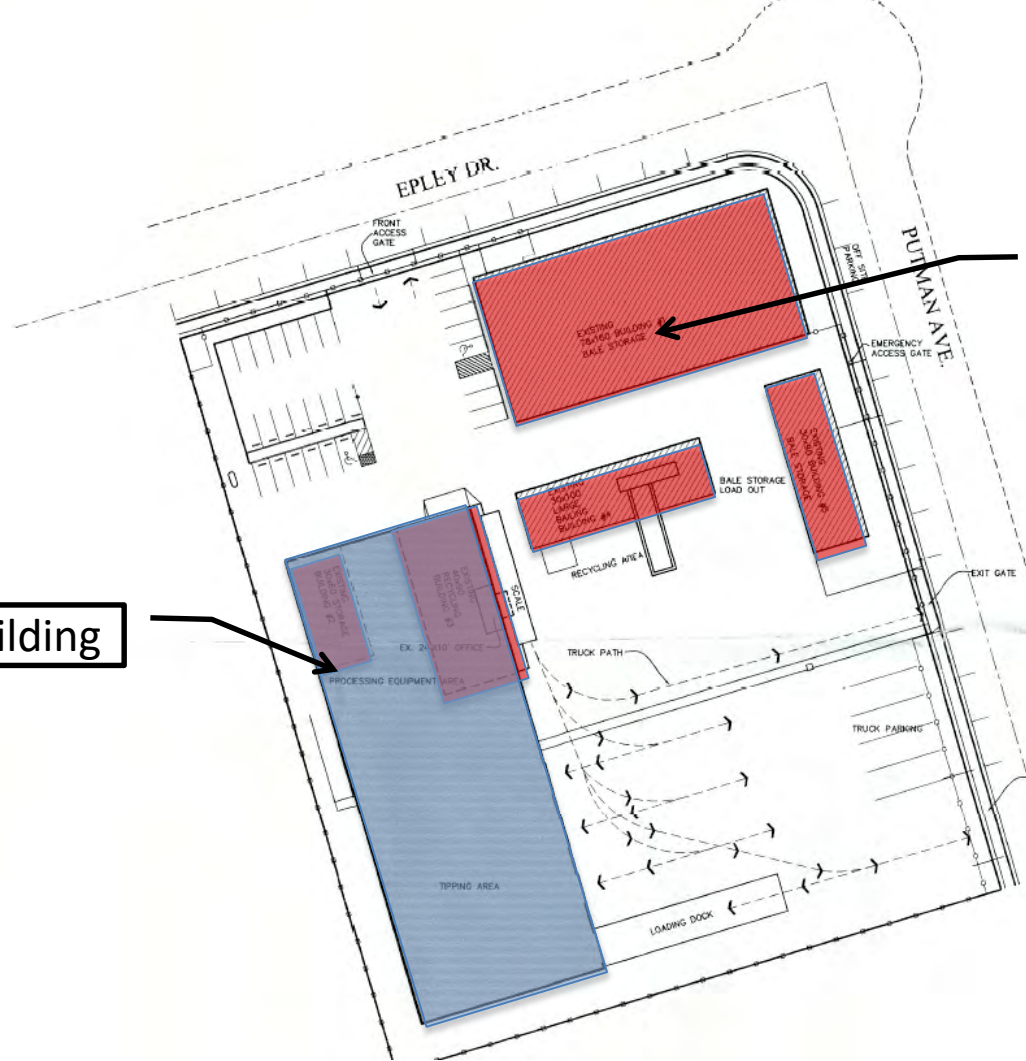
Use Permit 12-01

- Allowed solid waste (i.e., putrescible material) of up to 10% of all delivered material
- Putrescible: liable to become putrid, decay/rot
- Self-haul only. Packer garbage trucks would not be permitted



Approved
UP. 12-07

New building



Existing
buildings (in
red)



Recycling Industries (RI) Proposal: UP 17-05/D.P.17-03

- Expand from 3 to 4 acres
- Expand from 100 tons/day to 300 tons
- Allow Packer trucks and self-haul
- No limitations of putrescible material



Benchmark Resources

- Land use and consulting firm specializing in permitting and CEQA review for industrial and natural resource land uses
- Role: Peer reviewed draft Subsequent Mitigated Negative Declaration (SMND) prepared by Clements Environmental and provided recommended revisions and comments to City staff



Following review of the environmental document by:

- Benchmark Consulting (City Environmental Consulting Firm)
- City Staff
- Cal Recycle
- Yuba-Sutter Local Enforcement Agency
- FRAQMD
- Regional Water Quality Control Board



These agencies determined that:

- With the conditions and mitigation measures, all potential significant environmental impacts will be reduced to less than significant; and
- The subsequent Mitigated Negative Declaration is the appropriate environmental document.



Comparison of Approved Permit, RI proposal, Planning Commission Approved Project

	<i>Approved per UP 12-01</i>	<i>RI Proposal</i>	<i>Planning Commission Approved (under appeal)</i>
Project area	3 acres	4 acres	4 acres
Max. tons per day	100	300	100
Max. putrescible material	10% of all material.	No Restrictions	10% of all material.
Types of deliveries	Self-haul only. No packer trucks.	Disallow Packer Trucks from delivering green waste.	Except for source separated curbside recyclables, material may not be accepted via packer trucks.
Origination of waste restrictions	No restrictions.	No restrictions.	Sutter and Yuba Counties only (including incorporated cities within said counties).

Comparison of Approved Permit, RI proposal, Planning Commission Approved Project

	<i>Approved per UP 12-01</i>	<i>Current RI Proposal</i>	<i>Planning Commission Approved (under appeal)</i>
Green waste	No restrictions.	Disallow Packer Truck delivery.	Self-haul only. No packer truck delivery. Shall be processed within 48 hours from acceptance.
Hours of operation	No restrictions.	No restrictions.	7 am-5 pm, Monday through Saturday with facility operating hours from 6 am-9 pm, Monday through Saturday. Closed on Sunday.
Queuing of vehicles on street	No restrictions.	No restrictions.	Prohibits of queuing of vehicles or the directing of vehicles off-site to avoid queuing.
Noise	Comply with City regulations.	No restrictions.	Comply with City regulations and adds condition that RI shall retain an independent acoustical engineer to measure noise within a specified time at the City's request.

Other P.C. Approved Conditions:

- Material at the facility will be sorted and will not be processed
 - Beverage container recycling (i.e., aluminum cans)
 - Glass
 - Electronic waste recycling (no processing will occur onsite)
 - Tire recycling (may not be altered, shredded, baled, or otherwise processed)
 - Green-waste (self-haul only; to be removed within 48 hours of being accepted)
 - Scrap metals
 - Mattresses and bedsprings
 - Rolled carpet
 - Clean wood waste

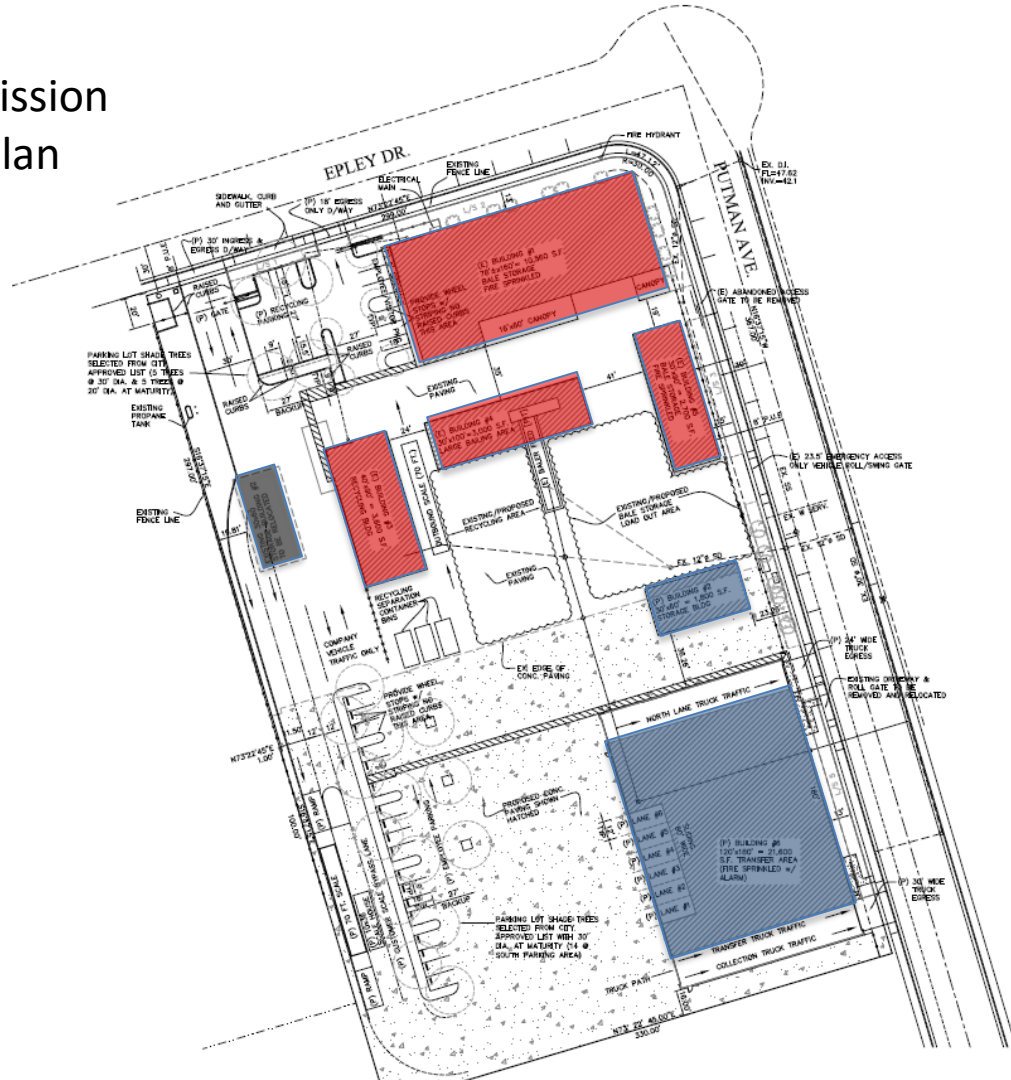


Other P.C. Approved Conditions (cont.):

- Putrescible material to be removed within 48 hours
- Applicant to clean nearby roadways
- All utilized areas shall be paved



Planning Commission Approved Site Plan



Appeal:

The attorney representing “Stop the Dump” based the appeal on two points:

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



Appeal (cont.):

2. The “revised Conditions of Approval still require bonding, and other methods to ensure enforcement need to be added so that the construction and operation of the revised Recycling Center is fully enforceable.”



In response to the first item regarding recirculation of the mitigated Negative Declaration:

- No mitigation measures were added or revised.

Additional project conditions were not added to reduce or avoid new significant impacts. They were instead provided in the spirit of compromise between the two opposing parties.



- The Planning Commission's incorporation of conditions of approval are consistent with 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).)

The project description utilized in the Negative Declaration was based on the applicant's request. Even though the Planning Commission's reduced project size will undoubtedly further reduce the environmental effects, no further mitigation was required by CEQA.



Thus, the Planning Commission's added 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.



In response to the second appeal item regarding the need for bonding to ensure proper enforcement of the conditions of approval:

- Bonds can 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 this business at this site for a number of years. To staff's knowledge, a complaint



has not 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.



Further - The City already has adequate means to enforce the conditions of approval.

- 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:

- The Planning Commission approved project will not be able to expand its material stream any more than was approved under the previous use permit.
- The new project will operate under stricter conditions than was approved under the previous Use Permit.
- There has been prepared and reviewed by qualified professionals an environmental document that concluded that this revised project will not create any potential significant



environmental impacts. The subsequent mitigated negative declaration meets all standards established by the California Environmental Quality Act.

- Based on staff's review of the appeal, and CEQA, the negative declaration does not need to be recirculated.
- The City otherwise has adequate permit enforcement powers, so bonding is not needed.



The appellant and applicant met and came to a mutual agreement on modifications to the Conditional Use Permit. These modifications place revised and additional conditions on this project and staff supports these modifications.



Staff recommends upholding the Planning Commission decision since the appeal lacks merit. But to recognize the efforts of the two parties, Council is requested to direct staff to notice the appeal for the Feb 5th Council meeting with the modified conditions of approval and appropriate resolution for final consideration.

