



Inter Office Memo

ATTENTION: FOR FINAL ACTION OR MODIFICATION TO OR ADDITION OF CONDITIONS, SEE FINAL BOARD OF SUPERVISORS' ACTION SUMMARY MINUTES.

DATE: November 19, 2020

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12851- INITIAL STUDY NO. 7556 AND UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3626

APPLICANT/
OWNER: John Emmett

REQUEST: Allow a solid waste processing facility consisting of an asphalt and concrete crushing operation that will produce recycled base rock, and have the subject materials stored onsite until offsite delivery occurs. The proposal is located on a 22.44-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the north side of East Kings Canyon Road approximately 1,980 feet west of its nearest intersection with North Del Rey Avenue and is approximately 1.57 miles northwest of the nearest city limits of the City of Sanger (APN: 314-120-35S) (SUP. DIST.: 5).

PLANNING COMMISSION ACTION:

At its hearing on October 22, 2020, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Woolf and seconded by Commissioner Hill to continue the hearing to November 19, 2020 at the request of the Applicant.

This motion passed on the following vote:

VOTING: Yes: Commissioners Woolf, Hill, Abrahamian, Burgess, Carver, Chatha, Ede, Lawson
No: None
Absent: Commissioner Eubanks
Abstain: None

At its continued hearing on November 19, 2020, the Commission considered the Addendum Staff Report and testimony (summarized in Exhibit "A").

During discussion, Commission members cited concerns with the operation's impacts to neighboring properties, especially in relation to dust generation and tree fruit. Commission members also cited the importance of preserving agriculture and the potential for conflict between the proposal and both existing land uses and property owners.

A motion was made by Commissioner Woolf and seconded by Commissioner Hill to deny Unclassified Conditional Use Permit Application No. 3626, stating that the required Findings could not be made per staff's recommendation.

This motion passed on the following vote:

VOTING: Yes: Commissioners Woolf, Hill, Abrahamian, Burgess, Carver, Ede, Lawson
No: None
Absent: Commissioners Chatha, Eubanks
Abstain: None

Steven E. White, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: 

William Kettler, Manager
Development Services Division

NOTES:

The approval of this project will expire two years from the date of approval unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Conditional Use Permit.

Attachments

WK:DR:cwm
G:\4360Devs&Pln\ADMINBOARD\Board Items\2020-2029\2021\11-26-21\CUP 3626 Appeal\CUP 3626 Attachment A RESO Final v2 .doc

EXHIBIT "A"

Initial Study Application No. 7556
Unclassified Conditional Use Permit Application No. 3626

Staff: The Fresno County Planning Commission considered the Staff Report Addendum dated November 19, 2020 and heard a summary presentation by staff.

Applicant: The Applicant's representative disagreed with the Staff Report and staff's recommendation. He described the project and offered the following information:

- The Paramount Properties Letter is from the Broker of the Emmett's; the Dumax Property letter is from a neighbor to the north of the subject parcel.
- By state mandate, the County is required to divert a certain amount of materials from the landfill; the operation will take old concrete from construction projects and recycle them to be utilized as base rock for other projects.
- The subject site is strategically located between Sanger, Clovis, and Fresno and fronts State Route 180 (E. Kings Canyon Road).
- They will operate the grinder portion of the operation only ten days a month and no more than four hours a day.
- The Applicant operated the very same project at Fowler Avenue and Clinton Avenue for ten years; they have never had a complaint and worked with their neighbors on addressing any problems that arose during their operation.
- The explicit standard of "no adverse impact" in the required Finding is an impossible standard; each of the items addressed in the staff report under Finding 3 have been found less than significant with the agreed upon mitigation measures.
- Noise has been mitigated with a 12-foot berm near the closest sensitive receptor with other obstacles between the berm and receptor further reducing noise impacts.
- We assumed that existing agricultural buffers and distance had less than significant impacts on the residence to the east and

the we are open to additional measures to reduce noise impacts.

- We had an acoustical study prepared for the project that concluded that the operation will not exceed the Noise Ordinance.
- This property has not been effectively farmed for a long period of time; the site is currently free of trees, but we plan to plant the northern portion of the site with almond or orange trees.
- There is required dust mitigation, and we utilize a water truck to reduce dust; the past operation never had a dust or noise complaint. Agricultural uses in the vicinity also produce dust. Dust is inevitable in this area.
- The Applicant believed that we could move equipment to the site while the CUP was being processed; we understand that is not the case and have strived to be in compliance with County standards.
- We are open to working with the neighbors on minimizing the proposed operations impacts on surrounding agricultural operations.

Others:

Two individuals (Property Owners/Applicant) jointly presented information in support of the application.

- We operated our old site at Clinton and Fowler for 10 years under an approved CUP permit and did our best in following the associated mitigation measures along with working with the neighbors.
- In the process of preparing our old site, the City of Fresno initially told us that the subject site would be industrially zoned for future development, but in 2017, the City of Fresno changed the plans for the area and is now planned for residential.
- Prior to buying the property, our broker spoke to the affected neighbor if they objected to the proposal.
- We bought the property in 2018 and started the permitting process in August 2018; our old property was purchased, and we had to move our equipment to the new site in April 2019.
- The crushing equipment is not crushing the materials per se, but feeds the materials through the machine and that chips away at

the material where water is added to the crushed material on a conveyer belt to reduce dust.

- Our equipment is compliant with state regulations; the crushing equipment is mobile and we believe the noise produced from the equipment is comparable to existing traffic noise.

Three individuals presented information in opposition to the application stating:

- Dust produced from the subject property can have devastating effects on the existing adjacent agriculture.
- Neighbors were made aware of the project when the applicants moved their equipment onto the property and were not contacted prior.
- Agriculture will be directly affected and the proposal will cause potential negative food safety effects and hardships on the farmers.
- Complaints have been filed against this property for the operation of the use without proper use permits.
- Dust, noise, and the aesthetics of the proposal negatively impacts the approximately three-acre parcel in the middle of the subject parcel.
- Even if the ground is watered, dust will still be generated on the property due to the nature of the soil in the area.

Correspondence: Three letters were presented to the Planning Commission in favor of the application and two letters were presented in opposition to the application.

RESOLUTION NO. 12851

EXHIBIT "B"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Initial Study Application No. 7556
(State Clearinghouse #20200090369)
Unclassified Conditional Use Permit Application No. 3626

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Conditional Use Permit Application	\$ 9,123.00 ¹
Environmental Assessment	\$ 5,151.00 ²
Public Health Department Review	\$ 992.00 ³
Agricultural Commissioner Fee	\$ 93.00 ⁴
Total Fees Collected	<u>\$15,112.00</u>

1 Includes project routing, coordination with reviewing agencies, preparation and incorporation of analysis into Staff Report.

2 Review proposal to provide appropriate California Environmental Quality Act (CEQA) Analysis and include documentation to prepare a Mitigate Negative Declaration.

3 Review of proposal and associated environmental documents by the Department of Public Health, Environmental Health Division; comments.

4 Review of proposal and associated environmental documents by the Department Agriculture; comments.