



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** February 4, 2008

**COUNCIL DISTRICT:** 4

**SNI AREA:** N/A

**SUBJECT: PDC06-120. PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW A LANDFILL, CONSTRUCTION OF AN APPROXIMATELY 200,000 SQUARE FEET MATERIALS RECOVERY FACILITY AND EXPANSION OF USE TO 24 HOURS PER DAY, 7 DAYS PER WEEK, AND ASSOCIATED RETAIL SALES OF RECYCLED MATERIALS ON A 52.5 GROSS ACRE SITE.**

## RECOMMENDATION

The Planning Commission voted 6-0-1 (Platten absent) to recommend that the City Council approve the proposed Planned Development Rezoning from the A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow continued use of a landfill, construction of an approximately 200,000 square foot materials recovery facility (MRF), expansion of use to 24 hours per day, 7 days per week, and associated retail sales of recycled materials on a 52.5 gross acre site, with direction to staff to work with the applicant at the PD permit stage to work to complete the Bay Trail, and promote the safety of truck drivers, bicyclists and pedestrians as traffic increases from the proposed expansion.

## OUTCOME

Should the City Council approve the proposed Planned Development Rezoning, the applicant could apply for a Planned Development Permit for the landfill and Materials Recovery Facility on the subject 52.5 gross acre site, consistent with the development standards for the subject rezoning.

## BACKGROUND

On January 30, 2008, the Planning Commission held a public hearing to consider the proposed project. Erik Schoennauer, representing the applicant, made a brief presentation on the proposed project highlighting the benefits of moving the recycling activities indoors, and also indicating that the project was a key component of the City's Green Vision strategy. Staff presented a summary of the Environmental Impact Report (EIR) process to date, and explained mitigations

measures for identified impacts and stated that there would be no environmental impacts that were significant and immitigable.

Commissioner Zito asked for clarifications regarding the alternatives in the EIR, and whether the reduced scale alternative would meet the City's objectives. The Deputy Director of Environmental Services (ESD) responded that even without growth, the City needs additional capacity and that the reduced alternative might result in the City needing to have waste stream hauled long distances to places like the Central Valley. ESD staff indicated that this enclosed facility could handle the broadest range of waste, including organics. Commissioner Zito focused on two questions: 1) where the material would go if a reduced facility was recommended; and 2) what the mix of materials handled at the facility would be.

In response to Commissioner Kinman's concern about the headlights from an increased volume of trucks shining on the wildlife refuge, staff clarified that changes to the perimeter berm height and the landscaping were made to address the comments regarding impacts on the refuge.

#### Public Testimony

Members of the Teamsters Union and their associates expressed concern about the project on the grounds of safety for bicyclists, truck drivers and school buses driving on Zanker Road. They noted that there had been two fatal accidents along that stretch of Zanker Road in the past five years. In response to the Teamsters, Alviso residents refuted their data and stated that relatively few bicyclists travel on Zanker, and that school buses have a better route than Zanker Road by taking First Street to the public school, and to the wildlife refuge.

A representative from Don Edwards Refuge acknowledged that City staff addressed most of their concerns raised during the review process, but they still had concerns regarding headlights shining on the refuge from the parking lot, and the use of trees on the berm because they would invite predators by being a non-native species.

A number of Alviso residents spoke in favor of the project and the operator, stating that the operator was a good neighbor, responsible and trustworthy, and has worked well with the community.

The applicant responded to concerns raised in the public testimony and highlighted that an EIR was prepared for a broader analysis and public review and that environmental clearance could have been achieved with a Negative Declaration, because there were no impacts that were considered significant that not be mitigated.

Commissioner Jensen stated it was good that modifications were made to the project after comments from the refuge staff. Commissioner Jensen further raised questions regarding gases from landfill, the possibility of using and accessing recycled water, vector control measures on site, the use of solar panels for the building and about plans for re-use of the site after the Materials Recovery Facility closed. The applicant responded that this is a former fiberglass landfill and most of the debris used in the landfill does not decompose, this landfill historically did not accept organic matter, and that very little gas would be generated. The applicant further

indicated that closure of the landfill would be executed in conformance with State regulations. Regarding use of recycled water, the applicant indicated they are in conversation with Environmental Services Department to try to resolve availability and access to the recycled water pipeline. In response to vector control questions, the applicant indicated there was a management plan included in the EIR that addressed the issue. The applicant stated that the corporation would try to achieve a LEED Silver or equivalent certification and is committed to working with staff at the PD permit stage to make the greenest building possible. In response to the post-closure use of the landfill, the capped landfill would be used as parking for the recycling use and the applicant stated that there will be adequate berm buffering, and visual screening and planting adjacent to the refuge site. The Material Recovery Facility has no set timeline for the end of the recycling and recovery use.

Commissioner Kalra stated if the recycling facility ceased to operate due to future advanced technology, a future rehabilitation plan for the site should be identified, and he asked questions about the truck circulation and future implementation of the Bay Trail. In response to these questions, the applicant noted the subject site has a Private Open Space designation on the City's General Plan, the access driveway at Zanker Road is designed at an angle to make it difficult for trucks to exit to the west towards Alviso, and that the Bay Trail is on the other side of the road (on the water pollution control plant side), and not abutting the edge of the Zanker facility.

Commissioner Kamkar inquired about the consequences should the ownership of the company change, and expressed concerns that in the future, other cities could offer more money for their waste to be processed at the MRF. In response, the applicant explained that State of California regulatory agencies would oversee the project and the conditions regarding the operation of the facility would be included in the PD permit. The applicant acknowledged that all landfills would experience growth in demand for recycled products and that this project proposes a limited on-site retail operation for things like recycled woodchips, crushed rock and compost.

#### Commission Discussion

After closure of public testimony, staff clarified the accident data submitted by the Teamsters and stated that the transportation analysis showed there would be no significant impacts from the increased truck traffic; that the accident data was investigated by Department of Transportation (DOT) staff who determined that the fatalities were not related to the Zanker facility; that 21 of 31 area accidents that have occurred along Zanker Road in the past five years actually occurred at the Highway 237 ramp; and that City has a methodology to compare roadway accident data to state averages with Zanker Road well below the state average for accidents per vehicle mile traveled on similar roads. DOT staff clarified that future vehicle trips along Zanker Road would be within the capacity of the roadway and the project meets the City's transportation policy 5-3.

Commissioner Zito made a motion to certify the EIR, stating environmental impacts were well described. Commissioner Kinman stated frustration over safety on Zanker Road not only for bicyclists but for small vehicles as well, especially at night and in rainy weather. The Commissioners certified the EIR unanimously, Commissioner Platten absent.

Commissioner Zito opened discussion on the PD Zoning and expressed a desire of knowing impact on the city if a reduced project alternatives was to be pursued, and if there would be any guarantee that the operator would contract with the City. The City Attorney explained that there was no ability to require a business contract with the City of San Jose through the rezoning process. Staff explained that future project oversight will be done by Local Enforcement Agency, other regulatory agencies, but not by the Planning Commission.

Commissioner Kamkar asked if the applicant will come back to the Commission for project details with a Conditional Use permit. In response, Counsel explained the project will be back to the Director of Planning with a Planned Development permit, but would only come before the Commission if appealed. Counsel explained that a suggestion could be made to City Council that staff work with the applicant to address the Bay Trail alignment and the safety of truck drivers, bicyclist and pedestrians along Zanker as traffic increases.

Commissioner Jensen made a motion to approve the project, Commissioner Kamkar seconded and Commissioner Kalra commented that he is confident the operator will work with the City on the issues mentioned above. The Planned Development Zoning was approved 6-0-1, with Commissioner Platten absent.

### ANALYSIS

See the attached staff report for additional discussion.

### POLICY ALTERNATIVES

Not applicable.

### PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A community meeting for the project was held at the Alviso Library Community Room on October, 2007. Community meeting notices were mailed to parcels within 2,000 feet of the project site, and to all Alviso residents. Approximately 30 community members attended, and had concerns about traffic and safety along Zanker Road, impacts on the wildlife

refuge, and general impacts on Alviso. This was balanced by support from a number of Alviso residents for the Zanker landfill operation and their positive relationship with the Alviso community.

Additionally, a notice of the public hearing was distributed to the owners and tenants of all properties located within 2000 feet of the project site, to all of the residents of Alviso and posted on the City website. The rezoning was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **COORDINATION**

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department, Department of Parks, Recreation, and Neighborhood Services, and the City Attorney. Preparation of this memorandum and associated ordinance was coordinated with the City Attorney's office.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with applicable General Plan policies and City Council policies and Green Vision as further discussed in the attached staff report.

### **COST SUMMARY/IMPLICATIONS**

Not applicable.

### **CEQA**

Environmental Impact Report, PDC06-120.

  
for JOSEPH HORWEDEL, SECRETARY  
Planning Commission

For questions please contact Susan Walton at 408-535-7847.

