



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: June 7, 2012

COUNCIL DISTRICT: 4

SUBJECT: FILE NO. PDC07-071, PLANNED DEVELOPMENT REZONING FROM R-M MULTIPLE RESIDENCE AND A(PD) PLANNED DEVELOPMENT ZONING DISTRICTS TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW A LANDFILL, RECYCLABLES PROCESSING, COMPOSTING, AND OTHER RELATED USES AT AN EXISTING LANDFILL AND MATERIALS RECOVERY FACILITY (NEWBY ISLAND SANITARY LANDFILL AND RECYCLERY), TO INCREASE THE MAXIMUM HEIGHT OF THE LANDFILL FROM 150 FEET TO 245 FEET, AND TO INCREASE THE LANDFILL CAPACITY BY 15.12 MILLION CUBIC YARDS ON A 352 GROSS ACRE SITE LOCATED AT THE WESTERLY TERMINUS OF DIXON LANDING ROAD, APPROXIMATELY 3,000 FEET WEST OF I-880 AND DIXON LANDING ROAD (1601 DIXON LANDING ROAD).

RECOMMENDATION

The Planning Commission voted 4-0-2-1 (Commissioners Bit-Badal and Abelite absent, Commissioner Yob recused) to recommend that the City Council find the project in conformance with the California Environmental Quality Act (CEQA) and recommend that the City Council approve the proposed Planned Development Rezoning, as recommended by staff.

OUTCOME

Should the City Council approve the Planned Development Rezoning as recommended by the Planning Commission and staff, this would allow the increase in landfill capacity to 25.83 million cubic yards and increase in height to 245 feet at the Newby Island Sanitary Landfill and Recyclery. The rezoning would also establish uses allowed upon closure of the landfill. The applicant would be able to move forward with subsequent Planned Development Permits to effectuate the zoning district, allow continued landfilling and waste diversion activities, and further environmental mitigation measures.

BACKGROUND

On June 6, 2012, the Planning Commission held a public hearing to consider the proposed Planned Development Rezoning. The Director of Planning, Building and Code Enforcement recommended approval of the proposed Planned Development Rezoning.

Staff provided introductory comments by stating that the proposed rezoning would not increase the footprint of the existing landfill nor increase the quantity of daily waste currently permitted to be brought to the landfill. Staff also explained the environmental review process for this rezoning and stated that the mitigation measures identified in the environmental impact report and Nuisance Species Abatement Plan have been incorporated in the project's development standards. Staff noted that two public comments were received after the distribution of the staff report, including a letter from the applicant's consultant and the City of Milpitas. Both letters were distributed to the Planning Commission prior to the hearing. Staff recommended approval of the project in that it conforms to the San Jose 2020 General Plan goals and policies, the City's Green Vision, and the California Environmental Quality Act.

Rick King, representing the applicant, International Disposal Corporation of California (IDC), spoke on behalf of the project. Mr. King explained that the project would not change the type of waste material accepted, amount of daily tonnage, truck traffic, or the landfill footprint. He supported staff's recommended approval and the proposed environmental mitigation measures.

Commissioner Platten asked about off-site mitigation measures. Mr. King explained that prior to reaching the current permitted landfill capacity, a biological assessment would be required to determine whether continued landfilling activity would impact sensitive species and whether off-site mitigation would be required.

Commissioner Kamkar asked whether the project only proposes to modify landfill height. Mr. King affirmed that the project proposes to increase landfill height. The project actually reduces the landfill footprint in that landfilling activity would no longer be permitted on a portion of the site referred to as the D-Shaped area.

Commissioner Kamkar asked which cities dispose waste at the site. Mr. King stated that customers include the Cities of San Jose, Milpitas, Los Altos, Cupertino, unincorporated areas of Santa Clara County, and other South Bay jurisdictions.

Chairperson Cahan asked the applicant to discuss odors associated with the project. Mr. King explained that IDC has worked with surrounding neighbors, including the City of Milpitas, over the years to proactively mitigate odor impacts. These mitigations included expensive measures that were not required by any regulatory agencies. Mitigations included relocating composting operations further from residential uses, installing non-toxic odor neutralizer devices, and tracking complaints.

Chairperson Cahan asked whether the conversion of methane gas to energy would continue after the landfill closure. Mr. King explained that methane capture is required as part of their post-closure plan. Methane emissions are also strictly regulated by the Bay Area Air Quality Management District (BAAQMD).

Chairperson Cahan asked whether extending landfill capacity would result in extended alternative energy sources. Mr. King reaffirmed this statement and indicated that the renewable energy currently created at Newby Island provides electricity for up to 3,000 residences.

Following the applicant's presentation, seven members of the public spoke on the item. Two members of the public were Milpitas residents who opposed the project due to odor concerns. Three speakers represented the City of Milpitas. The City of Milpitas City Manager, City Attorney, and their consulting CEQA attorney opposed the certification of the EIR, citing an inadequate project description, odor as a significant impact, and that the Planning Commission's role in EIR certification is not in compliance with CEQA guidelines. A representative of the U.S. Fish and Wildlife Service's Citizens Committee to Complete the Refuge thanked staff for significant improvements to the EIR in response to public comments and for recognizing the Refuge as a partner in environmental management of the area. The seventh member of the public represented the South Bay Labor Council, commending the applicant's site operations and supported allowing operations to continue.

Don Gambelin, representing the applicant, provided follow-up comments. Mr. Gambelin stated that the site began operating as a landfill since approximately 1938. Mr. Gambelin indicated that BAAQMD are technical experts equipped to evaluate odor impacts. Of the hundreds of odor complaints filed against Newby Island with BAAQMD in 2011, only one complaint was confirmed to have been caused from the site. Other sources of odor may be caused by adjacent land uses, such as the San Jose/Santa Clara Water Pollution Control Plant and biosolids drying beds. Mr. Gambelin explained that if the rezoning was not approved, landfilling could continue until the existing permitted capacity is reached. Composting and recyclable processing could also continue under current permits.

The Commission closed the public hearing. Planning staff clarified that EIR certification by the Planning Commission is allowed under CEQA guidelines and that EIR findings must be made by the City Council, an act that has not been delegated to the Planning Commission. Therefore, Planning Commission certification of the EIR does not conflict with CEQA.

Commissioner Kamkar acknowledged staff's efforts on the EIR. Commissioner Kamkar made a motion to certify the EIR and recommend that the City Council approve the proposed Planned Development Rezoning as recommended by staff. Commissioner Kline seconded the motion.

The Planning Commission then voted 4-0-2-1 (Commissioners Bit-Badal and Abelite absent, Commissioner Yob recused) to certify the EIR and recommend that the City Council approve the proposed Planned Development Rezoning, as recommended by staff.

ANALYSIS

A complete analysis of the issues regarding this project, including General Plan conformance, is contained in the attached staff report.

EVALUATION AND FOLLOW-UP

If the zoning is approved, the applicant would be required to file subsequent development permits with the Planning Division in order to implement the project on the subject site.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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 notice of this Planning Commission public hearing and subsequent City Council hearing was mailed to the owners and tenants of all properties located within 3,000 feet of the project site; Alviso property owners and occupants; members of the public who commented on the project's Notice of Preparation, Notice of Availability, and Draft Environmental Impact Report; members of the public who requested a hearing notice; and posted on the City website. A sign notifying the public of the proposed development was posted on site. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

On December 3, 2007, Planning staff issued a Notice of Preparation stating that the Draft Environmental Impact Report (DEIR) was being prepared. On September 15, 2009, a Notice of Availability (NOA) was issued for the public review period of the draft Environmental Impact Report from September 22, 2009 to November 5, 2009. The NOA was published in the San Jose Mercury News on September 22, 2009 and was mailed to local and regional agencies, organizations, businesses, project-area residents, and other members of the public who had expressed interest in the project. The 10-day circulation period for the First Amendment to the DEIR began on May 23, 2012.

Two community meetings were held for this project. The first meeting took place on November 23, 2009 at the Alviso Community Center with nine attendees. The second meeting took place on November 24, 2009 at the Milpitas Unified School District offices with six attendees. Attendees were in general support of the proposed project, as it helps the City attain its Green Vision goals and provides employment opportunities. Attendees also acknowledged that Newby Island Sanitary Landfill and Recycling was an existing use.

COORDINATION

This project was coordinated with the Departments of Public Works, Fire, Environmental Services, and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan goals and policies and City Council approved design guidelines as further discussed in attached staff report.

CEQA

The environmental impacts of this project were addressed by a Draft EIR entitled, “Newby Island Sanitary Landfill and the Recyclery Rezoning Project,” and subsequent First Amendment to the DEIR.

/s/
JOSEPH HORWEDEL, SECRETARY
Planning Commission

Attachments:

Staff report to Planning Commission
Development Standards

For questions, please contact Sylvia Do, Project Manager, at 408-535-7907

STAFF REPORT
PLANNING COMMISSION

FILE NO.: PDC07-071

Submitted: September 5, 2007

PROJECT DESCRIPTION: Planned Development Rezoning from R-M Multiple Residence and A(PD) Planned Development Zoning Districts to A(PD) Planned Development Zoning District to allow a landfill, recyclable processing, and composting uses at an existing landfill and materials recovery facility (Newby Island Sanitary Landfill and Recyclery). More specifically, this proposal is to increase the maximum height of the landfill from 150 feet to 245 feet, and to increase the landfill capacity by 15.12 million cubic yards on a 352 gross acre site.

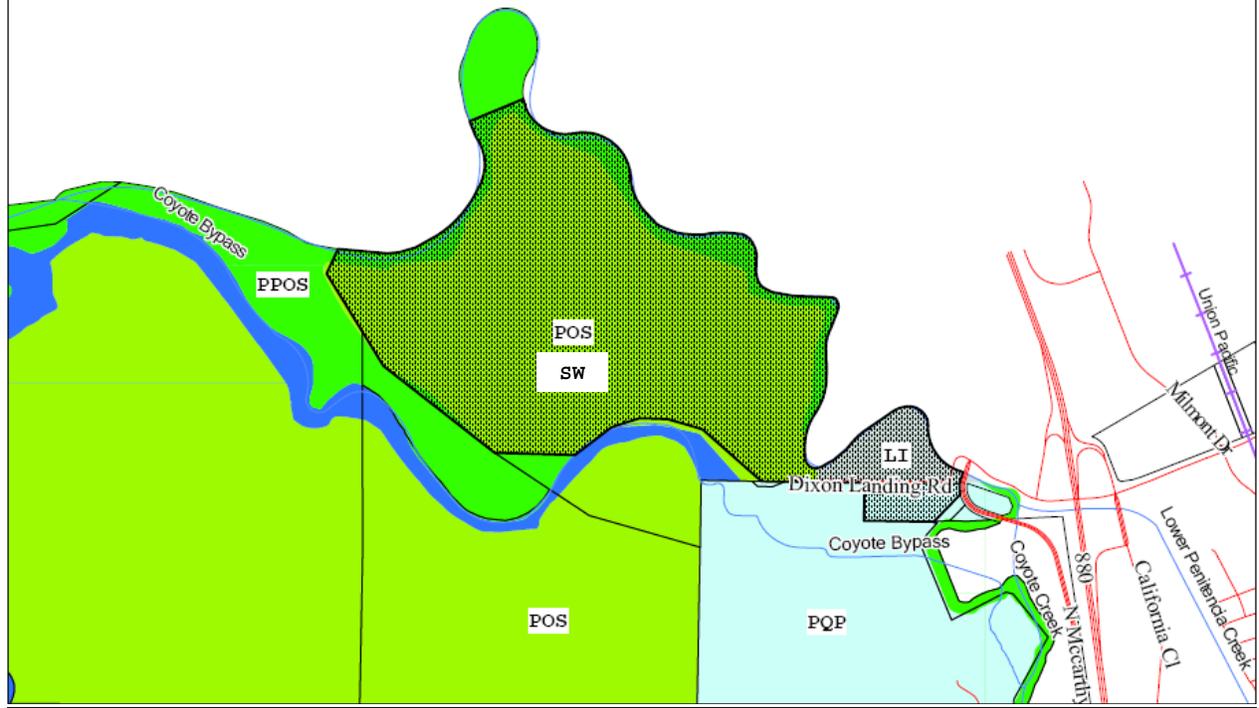
LOCATION: Westerly terminus of Dixon Landing Road, approximately 3,000 feet west of I-880 and Dixon Landing Road (1601 Dixon Landing Road)

Existing Zoning	R-M Multiple Residence and A(PD) Planned Development
Proposed Zoning	A(PD) Planned Development
2020 General Plan	Public Parks and Open Space with a Solid Waste Disposal Site overlay, Private Open Space, Light Industrial, and Public/Quasi-Public
2040 General Plan	Open Space, Parkland, and Habitat with a Solid Waste Disposal Site overlay, and Light Industrial
Council District	4
Annexation Date	March 12, 1968
SNI	None
Historic Resource	No
Redevelopment Area	No
Specific Plan	Alviso

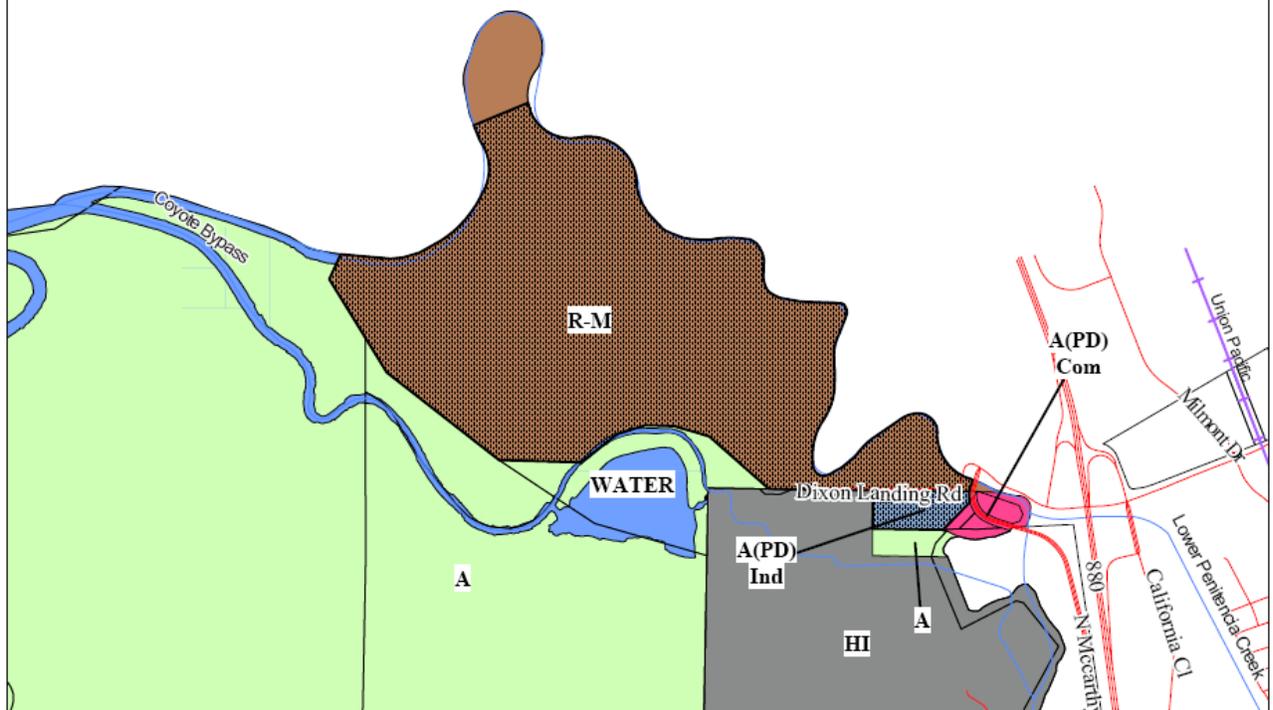
AERIAL MAP



2020 GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends the Planning Commission forward a recommendation to the City Council to approve the proposed Planned Development Zoning with the development standards as proposed by staff for the following reasons:

1. The proposed Planned Development Rezoning conforms to the San José 2020 General Plan designation of Public Parks and Open Space with a Solid Waste Disposal Site overlay, Private Open Space, Light Industrial, and Public/Quasi-Public. Additionally, the proposed rezoning conforms to the Envision San José 2040 General Plan designation of Open Space, Parkland, and Habitat with a Solid Waste Disposal Site overlay, and Light Industrial.
2. The proposed project supports the City's Green Vision.
3. The proposed zoning is compatible with existing uses on the adjacent and neighboring properties.
4. The proposed project conforms to the requirements of the California Environmental Quality Act (CEQA).

BACKGROUND & DESCRIPTION

On September 5, 2007, International Disposal Corporation of California submitted a Planned Development Rezoning from the R-M Multiple Residence and A(PD) Planned Development Zoning Districts to an A(PD) Planned Development Zoning District to allow the allow a landfill, recyclable processing, and composting uses at an existing landfill and materials recovery facility (Newby Island Sanitary Landfill and Recyclery). More specifically, the proposal is to increase the maximum height of the landfill from 150 feet to 245 feet, and to increase the landfill capacity by 15.12 million cubic yard on a 352 gross acre site located at the westerly terminus of Dixon Landing Road, approximately 3,000 feet west of I-880 and Dixon Landing Road.

The purpose of this rezoning is to memorialize and clarify the existing non-conforming uses on the Newby Island Sanitary Landfill and Recyclery, specify the allowable current and future uses for each of the three subareas, and allow the maximum height of the active portion of the landfill to be raised to 245 feet, thereby increasing the landfill capacity by 15.12 million cubic yards. The proposed maximum height of the landfill would allow Newby Island Sanitary Landfill (NISL) to continue receiving waste at the existing rate until it reaches the proposed capacity. While the City has control over the total volume of waste received at the landfill, the City does not have direct control over the closure date of the landfill. Therefore, the approval of the proposed rezoning could allow indefinite landfill use as long as capacity remains at the landfill. The rezoning would not modify or increase the lateral extent of the landfill footprint or increase the permitted quantity of waste that can be brought to the landfill on a daily basis.

The proposed Planned Development Rezoning creates a comprehensive zoning district that recognizes and allows for the existing landfill, recycling, and waste diversion activities with flexibility to allow for future technologies and innovations to be used on the site. Future technologies and innovations in equipment and processes would be related to landfill activities, recycling, composting, and energy recovery. This rezoning also establishes post-closure uses in the NISL once the landfill reaches capacity and is closed. Permitted post-closure uses are limited to uses including passive open space, education and training facilities, organics processing, and composting.

Prior to implementation of this rezoning, the review and approval of a Planned Development Permit (PD Permit) will be required. The PD Permit would identify the specific design, building configuration, uses, and operations for the property within the parameters of this PD Zoning.

Project Site

Newby Island Sanitary Landfill and Recyclery is located on an island separated by Coyote Creek and the South Coyote Slough from the mainland around it. The project site consists of three visually distinct subareas. The largest subarea is known as the Newby Island Sanitary Landfill (NISL). This subarea is approximately 325 acres that includes 296 acres of previous and current landfill activity and 29 acres of sloughs and marshland that will not be used for landfill. NISL is a solid waste disposal facility that currently provides disposal capacity to nearby cities including San Jose, Milpitas, Santa Clara, Cupertino, Los Altos, and Los Altos Hills. NISL is a Class III landfill facility as defined by the State Water Resources Control Board and is permitted to accept non-hazardous municipal solid waste (MSW). MSW is also referred to as mixed municipal waste and garbage, and includes all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking, or handling of food. NISL is a non-conforming land use in that the site has been used as a landfill since the 1930s, prior to its annexation into the City of San Jose in 1968 as an operating landfill. NISL has been in the R-M Multiple Residence Zoning District since its annexation. The existing landfill-related uses are non-conforming in that multi-family residences are the primary allowed use in the R-M Zoning District.

The second subarea is known as the “D-shaped area,” which is a 17-acre area located north of the main driveway, immediately west of the entrance gate at Dixon Landing Road. The D-shaped area is currently used for offices in temporary trailers, vehicle parking, and wood processing. The area is in the R-M Zoning District and the corporation yard and ancillary landfill uses are non-conforming.

The third subarea is known as the Recyclery, and is a 10-acre area located just south of the main driveway, west of the entrance gate, opposite of the D-shaped area. The Recyclery is located in the A(PD) Planned Development Zoning District (File No. PDC93-044), which allows recycling facilities and related activities. The Recyclery consists of an existing materials recovery facility (MRF) that collects, processes, and/or transfers reusable or recyclable materials. The State of California first issued a solid waste facilities permit for the MRF operation in 1991 and it has operated continuously since that time.

Surrounding Land Uses

The project site is surrounded by wetlands and the Environmental Education Center at the Don Edwards San Francisco Bay National Wildlife Refuge to the southwest, west, and northwest. The visitor center provides interpretive exhibits and educational programs. The refuge consists primarily of wetlands and sloughs, which drain to San Francisco Bay. The San Jose/Santa Clara Water Pollution Control Plant (WPCP) and biosolids lagoons are located to the south and southeast of the project site. Interstate 880 and commercial/light industrial uses are located northwest of the project site, in the City of Milpitas. The Alviso community is located over 10,000 feet southwest of the project site, beyond the Wildlife Refuge and WPCP.

ANALYSIS

The proposed rezoning was analyzed with respect to: 1) conformance with the San Jose 2020 General Plan, 2) Green Vision, 3) land use compatibility, and 4) the California Environmental Quality Act (CEQA).

General Plan Conformance

On November 1, 2011, the City Council approved the Envision San Jose 2040 General Plan. Under the Envision San Jose 2040 General Plan, the site has a Land Use/Transportation Diagram land use designation of Open Space, Parkland, and Habitat with a Solid Waste Disposal Site overlay, and Light Industrial. However, with the approval of the new General Plan, a specific policy was included that allows “pipeline projects” for development proposals that were already on file prior to the time of Council adoption of the Envision San Jose 2040 General Plan to determine General Plan conformance for a period of up to 18 months based on the San Jose 2020 General Plan. The pipeline project provision reads as follows:

For a period of up to 18 months following the adoption date of the 2040 General Plan, planned development zonings and discretionary development permits (including use permits and subdivision maps) may be considered for General Plan conformance to the land use designations as shown on the final adopted version of the Focus on the Future San Jose 2020 Land Use/Transportation Diagram. In addition, during the same 18 month period, planned development zonings and development permits for residential projects of four units or less on sites with a residential designation on the final adopted version of the Focus on the Future San Jose 2020 Land Use/Transportation Diagram may be considered in conformance with the General Plan. All of the "Pipeline" applications benefiting from this policy must have been submitted to the City, including full payment of initial application fees, prior to adoption of this General Plan and their review must be completed within this same 18-month period.

The subject Planned Development Rezoning was on file with full payment at the time of the Council adoption, therefore, the proposed project is analyzed for General Plan conformance under the San Jose 2020 General Plan as discussed below.

The site is located within the Alviso Master Plan Area. The Alviso Master Plan, adopted in 1998, is incorporated into the San José 2020 General Plan as the Alviso Planned Community. Under the Alviso Master Plan, the Landfill Subarea is located in the Urban Growth Boundary, but not the Urban Service Area (USA) Boundary, and the D-shaped and Recyclery subareas are located in the USA Boundary. The land use designations of the project site are as follows:

- Landfill: Public Parks and Open Space (PPOS) with a Solid Waste Disposal Site (SWDS) overlay on a majority of the subarea, Private Open Space (POS) on the northern boundary of the subarea. The Public Parks and Open Space designation is applied to existing areas in Alviso including the Don Edwards San Francisco Bay National Wildlife Refuge, a PG&E easement, and wetland mitigation areas. The Private Open Space designation applies to privately owned lands for low intensity, open space activities. The Solid Waste Disposal Site overlay designation is applied to currently operating solid waste disposal sites in the Alviso Master Plan area, including Newby Island.
- D-shaped area: Light Industrial. The Light Industrial designation allows a wide variety of industrial uses, including light manufacturing, warehousing, wholesaling, and other industrial uses with mitigated hazardous or mitigated nuisance effects.
- Recyclery: Public/Quasi-Public. The Public/Quasi-Public designation in Alviso is applicable to areas including WPCP buffer lands.

This project conforms to these land use designations in that landfill activities will only occur within the SWDS overlay area, the corporation yard and support uses for the waste hauling business are consistent

with the industrial uses allowed in the Light Industrial designation, and the materials recycling facility use is compatible with the existing landfill operations.

The proposed project on the subject site is also consistent with the following General Plan Major Strategies and Policies as discussed in the following:

1. **Sustainable City:** The purpose of the sustainable strategy is to minimize waste, conserve natural resources, and environmental protection.

By firmly establishing the boundaries of the use, a portion of which is legal-non conforming, and by establishing controls through this Planned Development Zoning, the proposed project promotes waste minimization, recycling, composting, energy efficiency, and open space conservation by extending the life of an existing landfill and recycling operation.

2. **Solid Waste Goal No. 1:** This strategy seeks to recover the resource value of solid waste and foster the establishment of facilities in San Jose which constructively use and reinvest such resources in the local economy.

The proposed project allows the continued use and expansion of resource recovery activities, including recycling, composting, and non-putrescible material recovery (i.e. wastes that do not decompose at a rapid rate such as construction and demolition debris, mattresses, carpets, etc.).

3. **Solid Waste Goal No. 2:** Extend the life span of existing landfills by promoting source reduction, recycling, composting, and transformation of solid wastes.

NISL is a regional solid waste disposal facility that provides the collection and disposal of solid waste for San Jose residents and businesses. Rather than establish a new landfill site, which would be contrary to the General Plan's solid waste policies, the proposed project conforms to the General Plan's preferred method of allowing continued availability and promotion of recycling, resource recovery, and composting capacity to ensure adequate long-term landfill capacity.

4. **Solid Waste Goal No. 3:** Locate and operate solid waste disposal facilities in a manner which protects environmental resources.

An Environmental Impact Report has been prepared for this project in conformance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The proposed project results in significant environmental impacts. However, mitigation measures are proposed to avoid or reduce these impacts. See below for additional discussion regarding CEQA, and specific significant environmental impacts and mitigation measures, particularly in regard to biological resources. The proposed project would not conflict with a habitat conservation plan or natural community conservation plan.

5. **Solid Waste Goal No. 4:** Locate and operate solid waste disposal facilities in a manner compatible with existing and planned surrounding land uses.

The proposed project will not significantly change primary land uses and activities existing at the site and, therefore, will not have a major impact to current and future land uses.

Green Vision

The current and continued use of resource materials recovery, organics processing, and composting after the

closure of the existing landfill is consistent with the City's goals of recovering the resource value of solid waste and fostering the establishment of facilities which constructively use and reinvest such resources in the local economy, as well as promoting recycling in the City. The resource recovery operations would not only help the City meet its waste diversion goals mandated by State Assembly Bill 939 and be consistent with the County's Integrated Waste Management Plan, but would also enable the City to meet its more aggressive goal of 75 percent waste diversion by 2013 and a goal of zero waste by 2022.

Land Use Compatibility

The project site is immediately bounded by Coyote Creek and the South Coyote Slough. Beyond the immediate perimeter, uses within 1,000 feet of the project site include the Don Edwards National Wildlife Refuge and wetlands southwest, west, and northwest of the site; and the WPCP and biosolids lagoons south of the site. Property immediately adjacent to the east is being managed as restored wetlands. Lands to the northeast and east of the restored wetlands are developed with commercial/light industrial uses. The nearest residential uses is located approximately 0.4 miles east of the project site at Dixon Land Road and California Circle in the City of Milpitas. The nearest residences in San Jose are in Alviso, almost two miles to the southwest.

The site is not part of a habitat conservation plan or natural community conservation plan. The Newby Island Sanitary Landfill and Recyclery currently operates as a solid waste transfer facility with landfilling activity, materials processing, materials recycling facility, organics processing, and composting. The proposed increase in capacity would allow for the landfill to continue accepting waste at existing rates and meet their existing contractual obligations. If there was insufficient capacity at Newby Island, waste generated from uses within the city would be transported elsewhere. The primary land uses proposed are existing activities including landfilling, recycling, and the management of equipment required for those operations. The project does not propose to increase the landfill's existing footprint nor increase the daily amount of waste accepted at the landfill. The proposed use of the D-shaped area for a corporation yard for the waste hauling company will not create any significant land use conflicts beyond industrial uses anticipated under the Light Industrial General Plan designation, and the subarea's distance from any sensitive receptors and its relative isolation behind existing levees. While the project may extend current conditions for a longer period of time than would otherwise be the case, the proposed project would not introduce any new land use compatibility impacts.

Aesthetics

The City has designated scenic routes and trails near the project site. Interstate 880 is a designated urban throughway and there are designated trails and pathway corridors (including the Bay Trail and Lower Guadalupe River Trail) south of the project site which go along creeks and around the salt ponds.

The visual change most noticeable to surrounding land uses will be the proposed increase in maximum elevation from 150 to 245 feet. The landfill is currently permitted with a maximum height of 150 feet. Currently, the existing landfill height, where the additional height is proposed, varies between 100 and 130 feet. Since this is an active landfill area, the elevation changes continuously. Compared to the existing landfill height, the proposed project would allow for a height increase of 115 to 145 feet. Compared to the currently permitted maximum height, the proposed project would allow for a height increase of 95 feet. While the proposed project would allow for the maximum landfill height to be 245 feet, the entire landfill area would not be filled to 245 feet. The landfill would slope up with the center of the landfill peaking at 245 feet. Landfill grading is designed to maximize slope stability and allow for maintenance in the future. While the landfill at its proposed height has greater mass and height than existing, the overall width and mass of the landfill is already substantial, so the increment of difference

will appear relatively small. While the increase in landfill height will partially obscure some of the horizon and more of the hillsides in the background from certain vantage points, the change in visual character of the area is not substantially degraded by this change. Since the footprint of the landfill is not expanding, it would not place the landfill closer to surrounding residential uses or sensitive receptors. In addition, there is no proposal to place recycling activities on parts of the landfill that are visible off-site. The nearest residential use is in Milpitas. While slightly more landfill mound could be seen in the proposed project condition compared to existing and permitted conditions, the proposed height increase would not be visually intrusive, would not be a change in visual character, and would not obscure any scenic vista. The proposed height would also not create significant visual impacts to scenic resources or existing and future trails segments.

Currently, no landfill equipment, operations, or buildings are visually distinguishable on the landfill, except for low-lying structures at the top of the landfill. The project proposes to have hauling company facilities including box storage; landfill facilities including recyclable materials processing and equipment storage; and composting operations and facilities including windrows, material processing, finished compost stockpiles, and equipment storage. Some of these activities are proposed to be located about halfway up the landfill at 110 to 130 feet and may be visible off-site. To minimize the visual impact of activities on this midway bench area, the project proposes to create a berm at the edge of the bench to block views of activities.

Odors

The nearest residence is located about 0.4 miles from the site. While the project would allow more waste to be deposited at the landfill, the project would not result in more waste being exposed at once than occurs under existing conditions due to the implementation of several odor control measures (OCMs). OCMs at the NISL include landfill gas collection and control systems, daily cover, water trucks, odor eliminating additives, meteorological stations, and proposer maintenance of composting windrows. Per the Recyclery's odor control plan, as outlined in the Recyclery's 1996 Report of Station Information, all materials including green waste and recyclables are processed within 48 hours of receipt to minimize and avoid odors. The proposed project would continue to allow food waste to be processed on the Recyclery property. Since that is not allowed by existing permits or zoning, disapproval of the project would mean the food waste could not be processed at the Recyclery subarea. Since the Recyclery is the portion of the site closest to residential uses, project approval could be a source of increased odors compared to project denial. If the project is not approved as proposed, the processing of food waste will have to be moved to the composting area of the landfill. The project does not propose to increase its current composting operations.

Post-Landfill Closure Uses

The NISL is presently subject to a State-approved post-closure land use plan that consists primarily of passive open space. Upon reaching landfill capacity, existing and proposed buildings would be removed and the landfill will be closed in compliance with the minimum State requirements for vegetative cover. Part of the NISL will be used for on-going environmental control and monitoring facilities, consistent with the current final post-closure plan. From surrounding properties, the closed landfill would look like a large grass-covered hill. The end use plan includes wildlife observation points, an education center, access roads and trails, and public facilities. Composting, organics processing, and non-putrescible material recovery activities would continue to be allowed in areas that would not result in off-site visual impacts.

Activity in the D-shaped area and Recyclery could continue operating after the landfill closes with any or

all of the uses listed in Table 1.4-1 of the Land Use Plan, as was allowed pre-landfill closure.

California Environmental Quality Act (CEQA)

The Draft Environmental Impact Report (DEIR) entitled “Newby Island Sanitary Landfill and the Recyclery Rezoning Project” circulated from September 22, 2009 to November 5, 2009. Planning staff received comments from 18 agencies, organizations, businesses, and individuals. Comments included, but were not limited to, the following: project impacts to San Francisco Bay trail users; Coyote Creek; windblown waste into the Wildlife Refuge; impacts from nuisance species to sensitive species; off-site mitigation measure for the California clapper rail, salt marsh harvest mice, and salt marsh wandering shrews; sea rise levels and flood protection; visual change in landfill height; odor; mitigation for burrowing owls; outdoor food processing; traffic; and the Nuisance Species Abatement Plan. These comments have been addressed in the First Amendment to the DEIR. The First Amendment was circulated on May 23, 2012 to DEIR commentors . The First Amendment to the DEIR is available for review on the Planning Division website at: <http://www.sanjoseca.gov/planning/eir/EIR.asp>. The First Amendment, taken together with the Draft EIR, constitutes the Final EIR.

As part of the preparation of the Final EIR, the City is required under CEQA to respond to environmental questions and comments received on the Draft EIR. Given the substantial amount of comments received on the Draft EIR, the City took a longer period of time to respond to comments and prepare the Final EIR than is typical. In addition, substantial time and effort were spent by the project applicant refining mitigation measures and proposing modifications to the project description after the Draft EIR finished circulating.

A substantial amount of time and effort was spent by the City and its consultants, and by the project applicant and their consultants, on the refinement of mitigation measures that implement the Nuisance Species Abatement Plan (NSAP) (Mitigation Measure BIO – 13.1), and the mitigation required for impacts to biological resources resulting from extending the life of the landfill (Mitigation Measure BIO – 14.1).

Based in part on information included in the comment letters received by the City on the Draft EIR, edits were made to the draft NSAP. The edits included substantial clarifications and addition details that were considered necessary to provide a greater comfort level and understanding relative to the effectiveness of the EIR NSAP in mitigating impacts from the proposed project.

After the Draft EIR finished circulating, the project applicant retained a consulting firm, Environmental Stewardship & Planning (ESP), to provide supplemental biological information to the City to consider in the Final EIR. ESP also provided the City with suggested revisions to the NSAP that are generally consistent with the information included in their supplemental biological report.

The First Amendment includes ESP’s supplemental biological report and the revised ESP NSAP (Appendix A of the First Amendment). The City’s consultants do not agree with most of the revisions to the NSAP or with the conclusions in the ESP biological report and, as reflected in the table and discussion entitled “City’s Response to ESP Supplemental Biological Report” included in Appendix A, believe that ESP’s version of the NSAP would not reduce impacts to less than significant levels.

A disagreement between experts does not invalidate an EIR (CEQA Guidelines §15151). The discussion which follows the table in Appendix A identifies the bases of the disagreements and reflects why the City’s EIR consultants cannot recommend the ESP NSAP. After discussions, the project applicant agreed

to implement the Revised EIR NSAP. The Revised EIR NSAP is consistent with the City and its consultant's recommendations. These environmental mitigation measures have been incorporated in the project's development standards.

The project is required to incorporate specific measures to mitigate any significant impacts to these environmental settings. The mitigation measures will be included in the project in the form of development standards for the Planned Development Zoning and in a mitigation monitoring program. The following is a brief summary of mitigation measures to reduce significant impacts to a less-than-significant level. The project's development standards include a more comprehensive description of the mitigation measures.

With regards to impacts to sensitive wildlife from nuisance species (e.g. gulls, crows and ravens), EIR Mitigation Measure BIO-13.1 requires the project to:

- Fully implement the Nuisance Species Abatement Plan (NSAP). If the landfill operator does not meet the success criteria specified in the NSAP, the landfill operator shall provide off-site habitat for the impacted species or contribute funds to on-going predator control programs that benefit the impacted species. The Nuisance Species Abatement Plan includes a variety of measures to impede access to food waste by nuisance species, such as compacting and covering refuse, covering and quick processing of tires, which can harbor nuisance species, and the use of rodenticide inside buildings; and an adaptive palette of abatement measures, including pyrotechnics, paintball guns, trained dogs, trained falcons, and the like.

Regarding impacts from continued landfill activities for an extended duration, EIR Mitigation Measure BIO-14.1 requires the project to:

- Prior to reaching the current permitted landfill capacity, the applicant is required to hire a biologist to assess whether continuing landfill activities are having an impact on surrounding California clapper rail, salt marsh harvest mice, and salt marsh wandering shrew habitat. If the Director of Planning finds, based on the biologists' report, that significant impacts will occur to those types of habitat, then the applicant shall provide off-site mitigation according to a pre-determined one-to-one ratio to compensate for impacts to these species. This offsite mitigation may take one or several forms, including, but not limited to:
 - Restoring tidal marsh habitat suitable for use by these species
 - Enhancing tidal marsh habitat suitable for use by these species (e.g., via the control of invasive plants or alteration of the hydrologic regime [such as restoration of a muted tidal marsh to a fully tidal condition])
 - Enhancing populations of these species by increasing reproduction and survivorship (e.g., by controlling predatory or competitive animal species, in addition to the abatement required at the landfill itself).

With regards to impacts to the burrowing owl, the project will be required to:

- Complete surveys in potential borrowing owl habitat in conformance with the California Department of Fish and Game protocol prior to the start of any ground-disturbing activity.

With regards to impacts to the nitrogen oxide (NO_x), volatile organic compounds (VOCs), precursor organic compounds (POCs), and reactive organic gasses (ROGs), the project will be required to:

- Purchase NO_x and VOCs/POCs/ROGs offsets for emissions in excess of the Bay Area Air Quality Management District's (BAAQMD) current annual emission thresholds or obtain the offsets through

BAAQMD's Small Facility Banking Account.

With regards to geological impacts, the project will be required to:

- Provide a design-level geotechnical report prepared by a qualified professional to analyze the geological impacts resulting from the construction or development of new buildings or permanent structures.

With regards to impacts to flooding as a result of global climate change, the project will be required to:

- Evaluate the status of projected sea level rise in combination with a 100-year flood event as part of the landfill's annual capacity survey report to the Local Enforcement Agency (LEA) and CalRecycle.

All other environmental impacts of the proposed project, including land use, visual and aesthetics, transportation, noise, hydrology and water quality, hazards and hazardous materials, cultural resources, utilities and service systems, and energy, would create a less-than-significant environmental impact.

PUBLIC OUTREACH/INTEREST

On December 3, 2007, Planning staff issued a Notice of Preparation stating that the Draft Environmental Impact Report (DEIR) was being prepared. On September 15, 2009, a Notice of Availability (NOA) was issued for the public review period of the draft Environmental Impact Report from September 22, 2009 to November 5, 2009. The NOA was published in the San Jose Mercury News on September 22, 2009 and was mailed to local and regional agencies, organizations, businesses, project-area residents, and other members of the public who had expressed interest in the project. The 10-day circulation period for the First Amendment to the DEIR began on May 23, 2012.

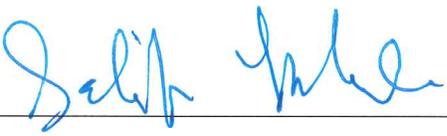
Two community meetings were held for this project. The first meeting took place on November 23, 2009 at the Alviso Community Center with nine attendees. The second meeting took place on November 24, 2009 at the Milpitas Unified School District offices with six attendees. Attendees were in general support of the proposed project, as it helps the City attain its Green Vision goals and provides employment opportunities. Attendees also acknowledged that Newby Island Sanitary Landfill and Recyclery was an existing use.

A notice of this Planning Commission public hearing and subsequent City Council hearing was mailed to the owners and tenants of all properties located within 3,000 feet of the project site; Alviso property owners and occupants; members of the public who commented on the project's Notice of Preparation, Notice of Availability, and Draft Environmental Impact Report; members of the public who requested a hearing notice; and posted on the City website. A sign notifying the public of the proposed development was posted on site. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

CONCLUSION

The proposed project creates a comprehensive Planned Development Zoning District that recognizes and allows for the existing landfill, recycling, and waste diversion activities, and establishes post-closure uses in the NISL once the landfill reaches capacity and is closed. The uses at this site are important to the City's waste diversion and zero waste goals, and conform to the City's General Plan goals and policies. The proposed project includes sufficient mitigation measures so that the project has no significant unmitigated environmental impacts. Staff recommends approval of this Planned Development Rezoning to bring the

facility into conformance with all required City, County, and State regulations.

Project Manager: Sylvia Do **Approved by:**  **Date:** 5/25/12

Owner/Applicant: International Disposal Corporation of California 1601 Dixon Landing Road Milpitas, CA 95035	Attachments: Development Standards Plans
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FILE NO. PDC07-071
NEWBY ISLAND SANITARY LANDFILL AND RECYCLERY
DEVELOPMENT STANDARDS
Revised 5/30/12

In any cases where the graphic plans and text may differ, this text takes precedence.

ALLOWED USES

Table 1.4-1: Land Use Regulations^{1, 2, 3}					
Land Use		Landfill Area Pre-Closure	Landfill Area Post-Closure	D-Shaped Area⁴	Recyclery Area⁴
1.	Composting	P	P	NP	NP
2.	Landfilling	P	NP	NP	NP
3.	Solid Waste Transfer Facility	NP	NP	NP	P
4.	Mixed Recyclables Processing (e.g. bottles, cans)	NP	NP	NP	P
5.	Organics Processing	P	P	NP	P
6.	Household Hazardous Waste Facility (including electronic waste and universal waste) ⁵	P	NP	P	P
7.	Education and Training Center	P	P	P	P
8.	Passive Open Space (e.g. trails, wildlife observation, public facilities)	NP	P	P	P
9.	Landfill Gas Management Systems and Associated Ancillary Equipment/Facilities	P	P	P	NP
10.	Non-Putrescible Material Recovery (e.g. construction and demolition debris, mattresses, carpet) ⁵	P	P	P	P
11.	Above-Ground Storage of Hazardous Material	P	NP	P	P
12.	Fueling Station (private/non-commercial)	NP	NP	P	NP
13.	Office and Employee Facilities ⁵	P	NP	P	P
14.	Outdoor Bin and Equipment Storage ⁵	P	NP	P	NP
15.	Public Drop Off Area	P	NP	P	P
16.	Scaling/Weighing Equipment and Facilities	P	NP	P	P
17.	Truck and Equipment Vehicle Parking (including trucks, tractors, mobile equipment) ⁵	P	NP	P	P
18.	Vehicle and Equipment Repair Facility	NP	NP	P	P
19.	Container Repair Shop and Bin Painting Booth (indoor)	NP	NP	P	P
20.	Vehicle/Wheel/Equipment Wash System	P	NP	P	P

P = Permitted Use
NP = Not Permitted Use

Note 1: **Bold** land uses are primary land uses. All other uses are considered secondary.

Note 2: For term definitions, refer to Section 11.0 of the Draft EIR and Title 20 of the San Jose Municipal Code, as amended.

Note 3: Landscaping, paving, parking, and other similar site improvements incidental to the above land uses are permitted, as appropriate.

Note 4: Allowable uses in the D-Shaped Area and Recyclery also include permitted (by right) and conditional uses (with a Planned Development Permit) of the HI Heavy Industrial Zoning Districts per Title 20 of the San Jose Municipal Code, as amended.

Note 5: Uses only permitted in Pre-Closure Landfill area if the activity is located at midway bench screened by landscaping berm, or equivalent area with no off-site visibility.

- Landfill Area: Landfilling is only permitted on 296 acres of the 325-acre landfill area. The remaining 29 acres is slough and marshland, which will not be used for landfill. Maximum landfill capacity of 25.82 million cubic yards.
- The operator shall comply with all applicable Federal, State, County, and City laws, ordinances, and regulations governing the operation of Class III Sanitary Landfill Disposal Sites. In the event that any hazardous material or other material not permitted for disposal at this site is inadvertently received at the facility, the operator shall cause its removal and final disposition in the manner prescribed by law.

DEVELOPMENT STANDARDS

SETBACKS FOR BUILDINGS AND STRUCTURES

- Perimeter property line: 25 feet
- Internal property line: 0 feet

MAXIMUM HEIGHT

- Landfill: 245 feet (NGVD29) at peak of sloped landfill
- Material stockpiles and composting windrows: 20 feet
- Buildings, structures, and heavy equipment: 50 feet

ARCHITECTURAL DESIGN

- The design and construction of the development shall be consistent with the Industrial Design Guidelines.

PARKING REQUIREMENTS

- Vehicle, motorcycle, and bicycle parking shall be provided per Title 20 of the San Jose Municipal Code, as amended.

PERFORMANCE STANDARDS

- Performance standards shall be per Section 20.50.300 of the San José Municipal Code.

HOURS OF OPERATION

- The site can be operated 24 hours per day, 7 days per week. General public entry shall be limited to 6 a.m. and 7 p.m., 7 days per week.

LANDSCAPING

- Uses and activity (e.g. material processing, corporation yard/outdoor storage, vehicle and equipment parking, etc.) located at the midway bench area shall be screened by a landscaping berm so as to minimize off-site visual impacts.
- Upon closure, the landfill shall be closed in compliance with the minimum State requirements for vegetative cover.

OUTDOOR LIGHTING

- Outdoor lighting shall conform to City Council Policy 4-3: Outdoor Lighting on Private Developments, as amended.

PUBLIC WORKS

Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
2. **Transportation:** A traffic analysis was prepared for this project. The Newby Island Sanitary Landfill (NISL) is currently permitted to operate 24 hours a day and to accept an annual average of 3,260 tons of waste disposed per day (tpd) and a daily maximum of 4,000 tpd. As noted, the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3).
3. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
4. **Stormwater Runoff Pollution Control Measures:** The Newby Island Sanitary Landfill and The Recyclery site has its own National Pollutant Discharge Elimination System (NPDES) Permit. The site shall not convey runoff into the City's storm drain system and, therefore, is not subject to the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) and Post-Construction Hydromodification Management Policy (Policy 8-14)
5. **Storm:** The existing drainage ditch immediately south of the main access roadway and west of the D-shaped area may impact the structural integrity of the levee due to the presence of standing water. This project is required to modify the drainage pattern in this area so storm runoff and landfill operations (spray trucks) do not discharge to the drainage ditch.
6. **Flood: Zone AE, Elevation 12.00' North American Vertical Datum of 1988 (NAVD88)**

- a) Elevate the lowest finished floor of any new structures to 12.00' NAVD88 or floodproof to the same elevation.
 - b) An Elevation certificate for each new structure, based on construction drawings, is required prior to the issuance of building permit. Consequently, an Elevation Certificate for each built structure, based on the finished construction, is required prior to issuance of an occupancy permit.
 - c) If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 81-65) for each structure, floodproofing details, a Flood Emergency Operation Plan, and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.
 - d) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage
7. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

ENVIRONMENTAL MITIGATION

The developer shall comply with the mitigation measures outlined in the EIR to satisfaction of the Director of Planning.

I. Air Quality

1. As required by BAAQMD regulations, the project proponent shall be responsible for purchasing NO_x and VOCs/POCs/ROGs offsets for emissions in excess of BAAQMD's current annual emission thresholds for NO_x and VOCs/POCs/ROGs or obtaining the offsets through BAAQMD's Small Facility Banking Account.

II. Biological Resources

1. *Pre-activity Surveys.* To avoid take of burrowing owls in violation of the Migratory Bird Treaty Act (MBTA), surveys for burrowing owls shall be completed in potential habitat in conformance with the California Department of Fish and Game (CDFG) protocol, no more than 15 days prior to the start of any new ground-disturbing activity (*i.e.*, any activity that is not already ongoing at the same location as part of the current landfill operations) associated with the expansion of the landfill, such as filling or grading in previously undisturbed ruderal/grassy areas.

If no burrowing owls are located during these surveys, no additional action is warranted. If these surveys detect burrowing owls on or within 250 feet of the location proposed for landfilling, grading, or other activities, then any ongoing activity can continue as long as it does not increase in intensity, or encroach closer to an existing burrow, based on a review of proposed/ongoing activities in the burrow's vicinity by a qualified biologist, and as long as the existing burrow is not destroyed and owls are not in danger of being harmed. If activity would increase in intensity or proximity to an occupied burrow, based on a review of proposed/ongoing activities in the burrow's vicinity by a qualified biologist, the following measures shall be implemented:

- a. *Buffer Zones.* If burrowing owls are present during the breeding season (generally 1 February to 31 August), a 250-foot buffer, within which no new project-related activity shall be permissible, shall be maintained between project activities and occupied burrows. Owls present at burrows on the site after 1 February shall be assumed to be nesting on or adjacent to that location unless evidence indicates otherwise to the qualified biologist. This protected area shall remain in effect until 31 August or, based upon monitoring evidence, until the young owls are foraging independently.
 - b. *Relocation.* If ground-disturbing activities would directly impact an occupied burrow, the owl(s) shall be evicted outside the nesting season to avoid impacts to the bird(s). No burrowing owls shall be evicted from burrows during the nesting season (1 February through 31 August) unless evidence indicates that nesting is not actively occurring (*e.g.*, because the owls have not yet begun nesting early in the season, or because young have already fledged late in the season).
2. The Nuisance Species Abatement Plan (NSAP) for the project, as discussed in more detail in the Final EIR, shall be fully implemented at the landfill and the Recyclery as long as the landfill and/or Recyclery are in operation. The NSAP includes standard nuisance species abatement measures (maintaining the minimum size working face of the landfill consistent with existing practice and permits; compacting and covering refuse; covering and rapid processing of tires; minimizing surface water; trapping or shooting medium-sized mammals; using rodenticides within buildings; and minimizing cover near nuisance species food sources and sensitive habitats) that must be implemented, as well as adaptive nuisance species abatement measures (pyrotechnics, paintball guns, vehicles, trained dogs, trained falcons, human disturbance, distress call recordings, predator calls, decoys of distressed birds, visual distraction/deterrent devices, vegetation management, physical barriers and roots deterrents, rodent trapping, a mobile component to gull abatement, use of radio-controlled drones, and mosquito larvicides) that are to be used as necessary.

Measures to control access to food waste by gulls and other nuisance species must be implemented at the outdoor food waste processing area at the Recyclery, including a building enclosure or netting.

As outlined in the NSAP, monitoring shall be conducted by qualified biologists (which may include abatement personnel) to determine the effectiveness of initial abatement measures and abatement techniques shall be adapted as determined by these biologists as necessary to ensure effectiveness. Regular monitoring reports (monthly memos and annual reports) shall be prepared by monitoring biologists and submitted to the Director of Planning, Building, and Code Enforcement to document the success of the abatement program. The monitoring and reporting criteria are outlined in detail in the NSAP.

For each group of nuisance species addressed by the NSAP, success of the NSAP is defined as maintaining or reducing abundance of nuisance species using the landfill relative to baseline levels identified in the NSAP.

The Director of Planning, Building, and Code Enforcement will assemble and select members of an NSAP Oversight Committee, which will consist of qualified biologists (including representatives from the Don Edwards San Francisco Bay National Wildlife Refuge and a Bay-area bird observatory), City of San José staff, and others chosen at the

Director's discretion. The NSAP Oversight Committee will review annual monitoring reports and provide recommendations to the Director regarding any changes in success criteria (including levels of abundance that should be considered the baseline against which monitoring results will be compared), abatement measures, monitoring measures, or other program components that should be made. This committee will be provided copies of monthly status reports and may also be consulted by the Director to discuss nuisance species abatement issues identified in monthly reviews. Meetings of the NSAP Oversight Committee shall include biologists that were retained to monitor wildlife at the landfill and Recyclery and who prepared the reports. Additional details regarding the success criteria for nuisance species, including gulls, corvids, mammals, and mosquitoes identified in the NSAP are provided in the Final EIR.

If the Director of Planning, Building, and Code Enforcement (in consultation with the NSAP Oversight Committee) determines that the NSAP is being implemented successfully for that year of operation, no additional mitigation of this impact is necessary. If the Director determines that the abatement program is not being implemented consistently and successfully, and adaptive management is inadequate to achieve the desired success criteria, then MM BIO – 13.3 shall be implemented.

3. If the landfill operator is not meeting the success criteria specified in the NSAP, the operator shall be required to contribute to one or multiple ongoing predator control programs and/or provide habitat at an off-site, South Bay location(s) to benefit the sensitive species that are being adversely affected by nuisance species supported by the landfill. Such sensitive species may include species associated with managed ponds, such as the western snowy plover, terns, American avocets, and black-necked stilts, and/or species associated with tidal salt marshes, such as the California clapper rail, salt marsh harvest mouse, and salt marsh wandering shrew.

It is possible that the NSAP abatement measures will be partially successful and thus will reduce the project's contribution to nuisance species' populations, even if success criteria are not achieved; such an outcome would affect the amount of off-site mitigation that will need to be provided. It is also possible that abatement measures may be fully successful for one group of nuisance species (*e.g.*, gulls and corvids) but not another (*e.g.*, mammals), thus potentially affecting the suite of sensitive species that must be targeted by off-site mitigation. As a result, it is not possible at this time to identify the sensitive species that must be targeted by off-site mitigation, the type of habitat mitigation required (*e.g.*, salt pond management vs. tidal marsh restoration), or the amount of mitigation required.

If off-site mitigation is determined to be necessary, the Director of Planning, Building, and Code Enforcement, in consultation with qualified biologists as described in the NSAP and government agencies (*e.g.*, CDFG and USFWS) as appropriate, will determine the specific type and amount of off-site mitigation required. The type of mitigation required will depend on the type of nuisance species for which abatement measures are found to be inadequate, and the type of sensitive species potentially adversely affected by depredation or encroachment by the nuisance species. If off-site habitat restoration/management is required, success of this mitigation measure would be achieved by presence of the target species in the restoration area within five years of site

acquisition and restoration, coupled with management of the site that is directed at the species' habitat and life-history requirements.

4. Before landfill activities may continue beyond the point of current permitted capacity (50.8 million cubic yards), the need for and extent of off-site mitigation for potential project impacts on the habitat of California clapper rails located within 700 feet of landfill activities during the extended project lifetime and on the habitat of salt marsh harvest mice and salt marsh wandering shrews located within 100 feet of landfill activities during the extended project lifetime shall be determined by a qualified biologist based on the performance standards and criteria described below. If impacts are determined to exist based on such performance standards and criteria, the landfill operator shall implement off-site mitigation to the extent determined to be necessary by the Director of Planning, Building, and Code Enforcement in accordance with the standards and criteria described herein. At this time it is not possible to determine the precise type and extent of mitigation, if any, that is appropriate to address the environmental impacts that may be created by the continuation of landfill activities because the mitigation that is necessary will depend on several, currently unknown, factors.

On January 1, 2018 or when the landfill has filled 48 million cubic yards (whichever is sooner), the landfill operator shall have a qualified biologist complete an assessment of the impacts of continuing landfill activities on California clapper rails, salt marsh harvest mice, and salt marsh wandering shrews prior to the point at which current permitted capacity is reached (50.8 million cubic yards) and before accepting any new waste beyond current permitted capacity. That assessment shall consider (a) the types and locations of project activities at the landfill that will continue beyond the point of current permitted capacity, (b) the distribution and quality of habitat in the surrounding marsh, (c) the distribution of clapper rails, salt marsh harvest mice, and salt marsh wandering shrews in the marsh (and more widely, in the South Bay, if appropriate), to the best and most complete extent that this can be determined or reasonably estimated, and (d) the use of the affected marsh by clapper rails, salt marsh harvest mice, and salt marsh wandering shrews (e.g., for breeding or nonbreeding use), and other relevant factors based upon information known at the time.

The biologist shall then determine the effect of continuing landfill activities on clapper rails, salt marsh harvest mice, and salt marsh wandering shrews. This assessment will be based on consideration of the types of landfill activities that will occur in proximity to habitat suitable for these species; currently, "in proximity to" means within 700 feet of habitat suitable for the clapper rail and within 100 feet of habitat suitable for the salt marsh harvest mouse and salt marsh wandering shrew, although these distances may be refined during the assessment by more up-to-date information on effects of human activities on these species if more information is available when the assessment is performed. The biologist will consider any landfill activities involving the movement of heavy equipment, loud noise, and substantial vibrations, and new lighting to represent an impact if (a) those activities would not be performed during regular landfill closure or post-closure activities, and (b) they occur in proximity to suitable habitat as described above.

The biologist will also take into account the anticipated duration (beyond the point of current permitted capacity – 50.8 million cubic yards) of activities that will adversely affect these species. Because these impacts are indirect and temporary (not permanent, but indefinite), the impacts of continuing landfill operations will cease after landfill capacity is reached and the landfill is closed. As a result, in determining the impacts to these species' habitat and/or populations, the biologist will consider the duration of the impact based on the predicted closure date as of the time that current landfill capacity is reached.

The type, location, and duration of landfill activities shall be identified by the landfill engineer responsible for Newby Island Sanitary Landfill (NISL), based on landfill contract information and the landfill engineer's professional knowledge and experience. Such information shall be provided to the Director of Planning, Building, and Code Enforcement and the consulting biologist.

The biologist's assessment will determine the extent of impacts of continuing activities on the California clapper rail, salt marsh harvest mice, and salt marsh wandering shrew in terms of either impacts to these species' populations (i.e., an estimate of the number of individuals/pairs affected) or the extent of impacts to these species' habitats, taking into account both habitat acreage and quality.

As part of this assessment, the biologist shall also conduct a survey of comparable salt marsh and brackish salt marsh habitat in the South Bay which are similar to the varying types of habitat within the 700 foot buffer (for clapper rails) and 100 foot buffer (for salt marsh harvest mice and wandering shrews) as measured from the then projected future landfill activities. This survey shall: (a) consider the quality of the varying types of comparable habitat in comparable South Bay areas and contrast it with the quality of the habitat within the buffer areas adjacent to the landfill; (b) determine to the extent practicable and allowed by then current laws and regulations the populations of average number of each of these special status species in the comparable South Bay habitats; and (c) determine to the extent practicable and allowed by then current laws and regulations the number of these special status species within their respective buffer areas around the landfill. Taking differences in habitat quality into consideration, the biologist shall then reach a professional judgment as to whether the special status species in the habitat areas adjacent to the landfill are less numerous than in the comparable South Bay habitat areas. If the biologist makes this determination, the landfill operator shall be required to provide off-site mitigation for the species in question on a one to one acreage ratio for the area of affected habitat adjacent to the landfill. If more than one species is determined to be affected, the landfill operator need only provide off-site mitigation for the single largest buffer area of any impacted species—i.e., if clapper rails and salt marsh harvest mice are both determined to be affected, the landfill operator shall provide mitigation based on the area of clapper rail habitat affected—as long as the mitigation habitat is suitable for all affected species.

A report of this assessment and the biologist's findings shall be submitted to the Director of Planning, Building, and Code Enforcement. If the Director of Planning, Building and Code Enforcement determines, based on the findings of the biologist's report or any other reasonable information available, that significant impacts to those species (including deprivation of viable habitat or ongoing disturbance of animals in proximity to

landfill activities) have not occurred from landfill activities up to that point in time and will not occur from continued landfill operations past the point of current permitted capacity, the landfill owner will not be required to provide suitable off-site habitat for the species being impacted for the remaining useful landfill life.

If, based on the findings of the biologist's report and any other reasonable information available, the Director of Planning, Building, and Code Enforcement determines that the continued operation of the landfill past the point of current permitted capacity will result in significant impacts to those sensitive species, off-site mitigation shall be provided by the landfill operator to compensate for impacts to these species. Such mitigation shall be required to be implemented by the landfill operator using a one to one acreage ratio (i.e., the area of the largest affected habitat adjacent to the landfill to the area of mitigation habitat to be provided by the landfill operator). This off-site mitigation may take one or several forms, including, but not limited to:

- Restoring tidal marsh habitat suitable for use by these species;
- Enhancing tidal marsh habitat suitable for use by these species [e.g., via the control of invasive plants or alteration of the hydrologic regime (such as restoration of a muted tidal marsh to a fully tidal condition)]; and/or
- Enhancing populations of these species by increasing reproduction and survivorship (e.g., by controlling predatory or competitive animal species, in addition to the abatement required at the landfill itself).

This mitigation may take the form of direct implementation by the landfill owner or a monetary contribution to similar efforts being performed by others, preferably in the area, such as efforts by the CDFG or U.S. Fish and Wildlife Service (USFWS). The mitigation, if required, must be described and in place prior to the landfill reaching its current permitted capacity of 50.8 million cubic yards.

The same off-site mitigation can serve to mitigate impacts to California clapper rails, salt marsh harvest mice, and salt marsh wandering shrews in a single location as long as the mitigation implemented will benefit all three species. However, performance criteria for each species must be satisfied. For habitat restoration, performance criteria would include the presence of the target species within five years of the development of vegetation suitable for each of those species within the restoration area and management of the site in accordance with the species' habitat and life-history requirements. For habitat enhancement or for measures, such as predator or competitor control, targeting increased reproduction and survivorship, performance criteria would include an increase in populations of the target species, within five years of implementation of the enhancement measures, commensurate with the estimated impact of the project. The precise location and means of providing such mitigation cannot be known at this time, as a variety of factors (including tidal marsh restoration and other activities that occur between now and the point current landfill capacity is reached) will influence available mitigation opportunities. Prior to the point at which waste exceeding the current landfill capacity is accepted by the landfill, the applicant shall have a qualified biologist prepare and implement a Mitigation Plan, which shall be submitted and reviewed by the Director of Planning, Building, and Code Enforcement and the NSAP Oversight Committee, detailing the following:

- a. A summary of habitat and population impacts;
- b. Goals of the mitigation;
- c. A description of the type of mitigation (e.g., habitat restoration, habitat enhancement, and/or predator/competitor control);
- d. The location of the mitigation site(s) and description of existing site conditions
- e. Mitigation design (for habitat restoration and enhancement efforts), including:
 - Existing and proposed site hydrology, geomorphology, and geotechnical stability, as applicable,
 - Grading/restoration plan,
 - Soil amendments and other site preparation elements as appropriate,
 - Maintenance activities, and
 - Remedial measures and adaptive management measures;
- f. Monitoring Plan (including final and performance criteria (which will include the minimum performance criteria mentioned above), monitoring methods, data analysis, reporting requirements, and monitoring schedule)
- g. A contingency plan for mitigation elements that do not meet performance or final success criteria

The Mitigation Plan shall be submitted to the Director of Planning, Building, and Code Enforcement, in consultation with the NSAP Oversight Committee, for review and approval. Once approved, the landfill operator shall fully implement and comply with such Mitigation Plan prior to accepting any new waste beyond the current permitted capacity of 50.8 million cubic yards.

III. Geology and Soils

1. In order to construct or relocate buildings or structures anywhere on the project site, a design-level geotechnical report by a qualified professional that documents testing of conditions on the site shall be prepared prior to approval of a PD Permit for any such building or structure, to the satisfaction of both the Director of Planning, Building, and Code Enforcement and the City Geologist.

Specifically for improvements on the D-shaped area, the design-level geotechnical study shall a) identify the extent of the potentially liquefiable soils by completing closely spaced CPT soundings to more accurately locate potentially liquefiable soils, and b) identify the necessary measures needed to avoid and/or mitigate liquefaction impacts, in accordance with local building codes. Possible measures include deep soil mixing, jet grouting, dynamic deep compaction, removal and replacement, vibrocompaction/vibroreplacement, and/or in-situ cementitious shear panels.

IV. Global Climate Change

1. As part of the landfill's annual capacity survey report to the Local Enforcement Agency and CalRecycle, the landfill operator shall also evaluate the status of sea level rise to ensure that the perimeter levee would provide at least two feet of freeboard above estimated sea-level resulting from currently predicted sea level rise in combination with a 100-year flood event.

PLANNED DEVELOPMENT ZONING FOR **NEWBY ISLAND SANITARY LANDFILL AND THE RECYCLERY**

LOCATED AT 1601 DIXON LANDING ROAD, MILPITAS CA
AS ESTABLISHED IN ORDINANCE _____, ESTABLISHING A PLANNED DEVELOPMENT ZONING DISTRICT



INTERNATIONAL DISPOSAL CORP OF CALIFORNIA
1601 DIXON LANDING ROAD
MILPITAS, CA 95035

**PLANNED DEVELOPMENT ZONING
PDC07-071
NEWBY ISLAND LANDFILL AND RECYCLERY
INTERNATIONAL DISPOSAL CORP OF CALIFORNIA**

NO	DATE	DESCRIPTION
4/22/2012		UPDATED LAND USE PLAN
9/25/2009		UPDATED LAND USE PLAN
9/2/2009		PER CITY COMMENTS
7/18/2008		PER CLIENT COMMENTS
PROJECT NO:	3525.00	
CAD DWG FILE:	3525R00CS.DWG	
DESIGNED BY:	ML	
DRAWN BY:	ML	
CHECKED BY:	RTH	
DATE:	9.5.2009	
SCALE:	NOT TO SCALE	
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COVER SHEET

C-1
OF 10

TABLE OF CONTENTS

C-1	COVER SHEET	C-5	PHOTO SIMULATION EXHIBIT
C-2	LAND USE PLAN	C-6	EXISTING CONDITIONS
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C-3	AERIAL EXHIBIT	C-8	GRADING AND DRAINAGE PLAN
C-4	SITE PLAN	C-9	STORMWATER CONTROL PLAN

PROJECT DESCRIPTION

THE PURPOSE OF THE PROPOSED PD ZONING IS TO ALLOW THE MAXIMUM HEIGHT OF THE LANDFILL TO BE RAISED TO 245 FEET (NGVD29), ADDING APPROXIMATELY 15.12 MILLION CUBIC YARDS TO ITS CAPACITY. THE PD ZONING WILL ALSO CONFORM AND CLARIFY THE LEGAL NON-CONFORMING USES ON THE LANDFILL PROPERTY AND THE RECYCLERY AND SPECIFY THEIR ALLOWABLE CURRENT AND FUTURE USES.

PROJECT INFORMATION

ASSESSOR'S PARCEL NUMBERS: LANDFILL AND "D-AREA": RECYCLERY	015-40-003, 005 PART OF 015-47-001
PROJECT ADDRESS/LOCATION:	1601 DIXON LANDING ROAD, MILPITAS
PRIOR APPROVALS: LANDFILL AND "D-AREA": RECYCLERY:	SP90-10-008 PDC9307-032
EXISTING GENERAL PLAN DESIGNATION: LANDFILL "D-AREA" RECYCLERY	ALVISO PLANNED COMMUNITY PRIVATE OPEN SPACE W/ LANDFILL/DISPOSAL OVERLAY AND LIGHT INDUSTRIAL (0.29 AC.) LIGHT INDUSTRIAL LIGHT INDUSTRIAL
EXISTING ZONING DESIGNATION: LANDFILL "D-AREA" RECYCLERY	R-M AND HI (0.29 AC.) R-M A(PD)93044
PROPOSED ZONING DESIGNATION:	A(PD)
EXISTING/PROPOSED USE:	LANDFILL, RECYCLERY, COMPOSTING, RECYCLING, WOOD CHIPPING, AND OTHER ANCILLARY USES ASSOCIATED WITH LANDFILL, RECYCLINGS, AND SOID WASTE MANAGEMENT SUPPORT OPERATIONS.
GROSS SITE AREA: LANDFILL AND "D-AREA" REFUSE DISPOSAL AREA: BUFFER AREA (SLOUGH/MARSHLAND): RECYCLERY:	± 313 AC. ± 29 AC. ± 10 AC. ± 352 AC.
REQUIRED PARKING:	SHALL CONFORM TO CITY STANDARDS
PROJECTED LANDFILL CLOSURE DATE:	2025



DEVELOPMENT TEAM

OWNERS:
INTERNATIONAL DISPOSAL CORP OF CALIFORNIA
CONTACT: RICK KING
1601 DIXON LANDING ROAD
MILPITAS, CA 95035

BROWNING-FERRIS INDUSTRIES OF CALIFORNIA, INC.
1601 DIXON LANDING ROAD
MILPITAS, CA 95035

LOS ESTEROS RANCH
CONTACT: WILL OSWALD
1601 DIXON LANDING ROAD
MILPITAS, CA 95035



**GEOTECHNICAL
ENGINEER/GEOLOGIST:**

GEO-LOGIC ASSOCIATES
CONTACT: GARY LASS
250 W. FIRST STREET, SUITE 228
CLAREMONT, CA 91711



CIVIL ENGINEER:

BRYAN A. STIRRAT & ASSOCIATES
CONTACT: ERIC TJENSVOLD
1360 VALLEY VISTA DRIVE
DIAMOND BAR, CA 91765



PLANNER:

HMH ENGINEERS
CONTACT: RAY HASHIMOTO
1570 OAKLAND ROAD
SAN JOSE, CA 95131



CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND HMM HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR HMM.

LEGEND

- PROJECT BOUNDARY
- PROPERTY LINE
- APPROXIMATE LIMIT OF WASTE
- EASEMENT (EXISTING)
- CITY LIMIT LINE
- INITIAL COMPOST AREA LINE

LAND USE	HATCH PATTERN	AREA	PERCENT
LANDFILL		±325 AC.*	92%
"D-AREA"		±17 AC.	5%
RECYCLERY		±10 AC.	3%
		±352 AC.	100%

* LANDFILLING IS ONLY PERMITTED ON 296 ACRES. THE REMAINING 29 ACRES IS SLOUGH AND MARSHLAND WHICH WILL NOT BE USED FOR LANDFILL.

PROJECT NOTES

1. LANDFILL (EXCLUDES "D-AREA" AND RECYCLERY):
 MAXIMUM LANDFILL HEIGHT: RESULTING IN A LANDFILL 245 FEET (NGVD29) CAPACITY OF 25.82 MILLION CUBIC YARDS
 ESTIMATED DATE OF CLOSURE: 2025
 POST CLOSURE END USE: PASSIVE OPEN SPACE, ENVIRONMENTAL CONTROL, AND MONITORING FACILITIES

2. THE INITIAL COMPOST AREA LINE DELINEATES THE EASTERN BOUNDARY OF THE AREA USED OR FORESEEABLY USED FOR COMPOSTING AT THE TIME OF THIS REZONING. SINCE IT CANNOT BE KNOWN WHEN, IF EVER, OR WHERE ANY COMPOSTING WILL BE PROPOSED BEYOND THE INITIAL COMPOST AREA LINE, A PD PERMIT AMENDMENT WILL BE REQUIRED WITH ADDITIONAL ENVIRONMENTAL REVIEW BEFORE COMPOSTING CAN BE MOVED EAST OF THE INITIAL COMPOST AREA LINE. THE POTENTIAL ODOR IMPACTS OF ANY SUCH PROPOSED RELOCATION SHALL BE ASSESSED USING THEN INDUSTRY ACCEPTED STANDARDS AND PERMITTEE WILL BE REQUIRED TO MITIGATE ANY ODOR IMPACTS FROM THE RELOCATED COMPOSTING OPERATIONS IN ACCORDANCE WITH CEQA UTILIZING THE BEST COMMERCIALLY REASONABLE INDUSTRY MANAGEMENT PRACTICES.

PERMITTED USES

Table 1.4-1: Land Use Regulations^{1,2,3}

Land Use	Landfill Pre-Closure	Landfill Post-Closure	D-Shaped Area ⁴	Recyclery ⁴
1. Composting	P	P	NP	NP
2. Landfilling	P	NP	NP	NP
3. Solid Waste Transfer Facility	NP	NP	NP	P
4. Mixed Recyclables Processing (e.g. bottles, cans)	NP	NP	NP	P
5. Organics Processing	P	P	NP	P
6. Household Hazardous Waste Facility (including electronic waste and universal waste) ⁵	P	NP	P	P
7. Education and Training Center	P	P	P	P
8. Passive Open Space (trails, wildlife observation, public facilities)	NP	P	P	P
9. Landfill Gas Management Systems and Associated Ancillary Equipment/Facilities	P	P	P	NP
10. Non-Putrescible Material Recovery (e.g. construction and demolition debris, mattresses, carpet) ⁵	P	P	P	P
11. Above-Ground Storage of Hazardous Material	P	NP	P	P
12. Fueling Station (private/non-commercial)	NP	NP	P	NP
13. Office and Employee Facilities ⁵	P	NP	P	P
14. Outdoor Bin and Equipment Storage ⁵	P	NP	P	NP
15. Public Drop Off Area	P	NP	P	P
16. Scaling/Weighing Equipment and Facilities	P	NP	P	P
17. Truck and Equipment Vehicle Parking (including trucks, tractors, mobile equipment) ⁵	P	NP	P	P
18. Vehicle and Equipment Repair Facility	NP	NP	P	P
19. Container Repair Shop and Bin Painting Booth (indoor)	NP	NP	P	P
20. Vehicle/Wheel/Equipment Wash System	P	NP	P	P

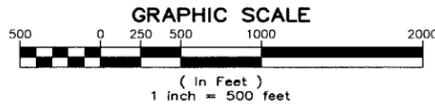
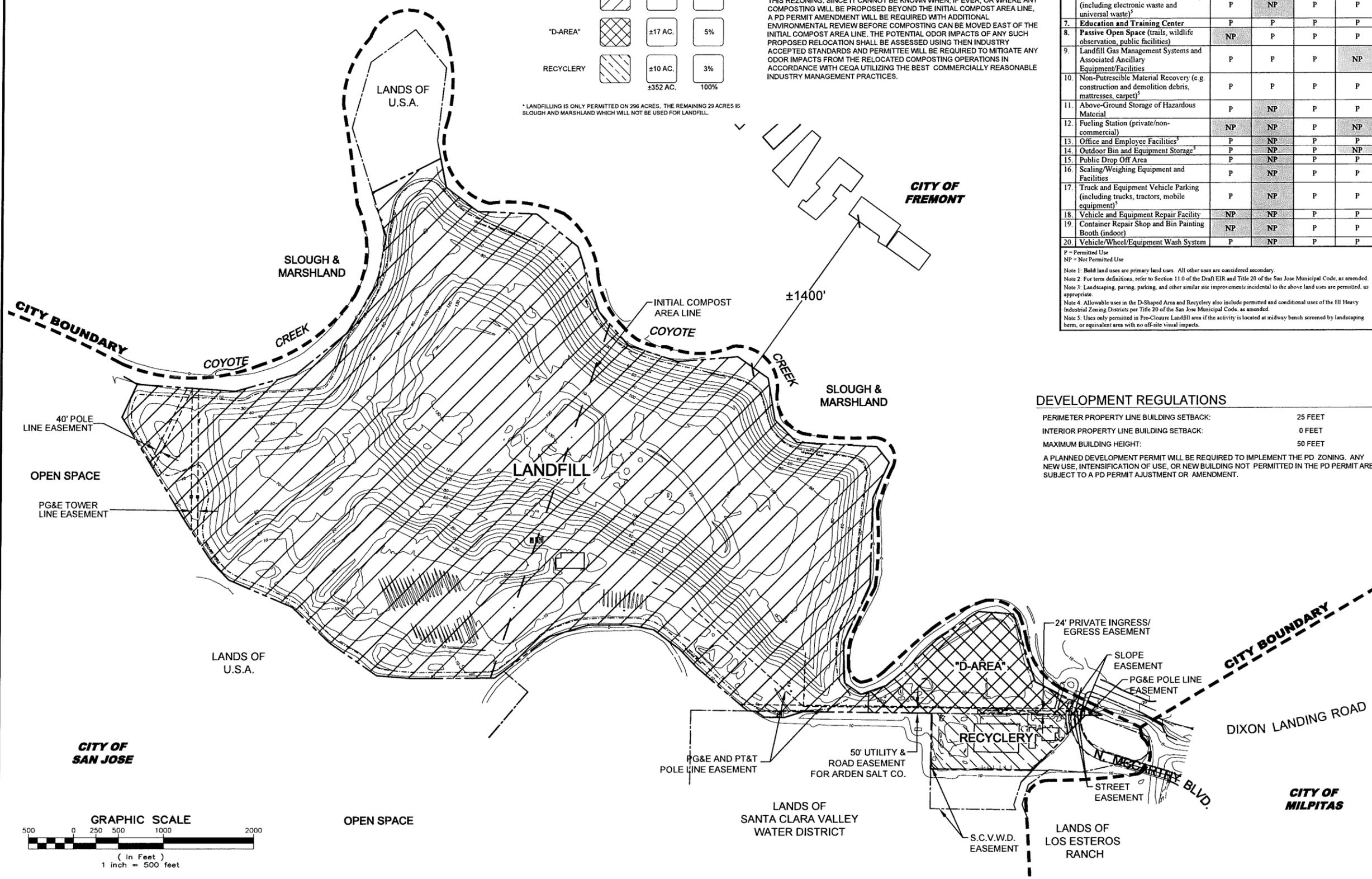
P = Permitted Use
 NP = Not Permitted Use

Note 1: Bold land uses are primary land uses. All other uses are considered secondary.
 Note 2: For term definitions, refer to Section 11.0 of the Draft EIR and Title 20 of the San Jose Municipal Code, as amended.
 Note 3: Landscaping, paving, parking, and other similar site improvements incidental to the above land uses are permitted, as appropriate.
 Note 4: Allowable uses in the D-Shaped Area and Recyclery also include permitted and conditional uses of the III Heavy Industrial Zoning Districts per Title 20 of the San Jose Municipal Code, as amended.
 Note 5: Uses only permitted in Pre-Closure Landfill area if the activity is located at midway bench screened by landscaping berm, or equivalent area with no off-site visual impacts.

DEVELOPMENT REGULATIONS

PERIMETER PROPERTY LINE BUILDING SETBACK: 25 FEET
 INTERIOR PROPERTY LINE BUILDING SETBACK: 0 FEET
 MAXIMUM BUILDING HEIGHT: 50 FEET

A PLANNED DEVELOPMENT PERMIT WILL BE REQUIRED TO IMPLEMENT THE PD ZONING. ANY NEW USE, INTENSIFICATION OF USE, OR NEW BUILDING NOT PERMITTED IN THE PD PERMIT ARE SUBJECT TO A PD PERMIT ADJUSTMENT OR AMENDMENT.



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 San Jose, CA 95131 HMMca.com

BFI
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 1601 DIXON LANDING ROAD
 MILPITAS, CA 95035

PLANNED DEVELOPMENT ZONING PDC07-071
NEWBY ISLAND LANDFILL AND RECYCLERY
INTERNATIONAL DISPOSAL CORP OF CALIFORNIA

NO	DATE	DESCRIPTION
4/30/2012		UPDATED LAND USE PLAN
8/25/2009		UPDATED LAND USE PLAN
8/2/2008		PER CITY COMMENTS
7/18/2008		PER CLIENT COMMENTS

PROJECT NO: 3978.00
 CAD DWG FILE: 362800L1.DWG
 DESIGNED BY: ML
 DRAWN BY: ML
 CHECKED BY: RTH
 DATE: 9.5.2008
 SCALE: 1"=500'
 © HMM ENGINEERS

LAND USE PLAN

PLOT: 06/10/2013 9:46 AM

PERFORMANCE STANDARDS

TO BE DETERMINED

ENVIRONMENTAL MITIGATION MEASURES

TO BE DETERMINED

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL GET AND HOLD THE OWNER AND ARCHITECT HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR ARCHITECT.

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 MILPITAS, CA 95035

PLANNED DEVELOPMENT ZONING
PDC07-071
NEWBY ISLAND LANDFILL AND RECYCLERY
INTERNATIONAL DISPOSAL CORP OF CALIFORNIA

△		
△	4/30/2012	UPDATED LAND USE PLAN
△	8/25/2009	UPDATED LAND USE PLAN
△	8/2/2009	PER CITY COMMENTS
△	7/18/2008	PER CLIENT COMMENTS
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CAD DWG FILE		362800LZ.DWG
DESIGNED BY		ML
DRAWN BY		ML
CHECKED BY		RTH
DATE		8.5.2008
SCALE		1"=500'
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LAND USE NOTES

C-2A

OF 10

PLOTTED: 5/17/2012 10:09 AM

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND HMM HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR HMM.



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**PLANNED DEVELOPMENT ZONING
 PDC07-071**
**NEWBY ISLAND LANDFILL AND RECYCLERY
 INTERNATIONAL DISPOSAL CORP OF CALIFORNIA**

NO	DATE	DESCRIPTION
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8/25/2009		UPDATED LAND USE PLAN
8/2/2009		PER CITY COMMENTS
7/18/2008		PER CLIENT COMMENTS

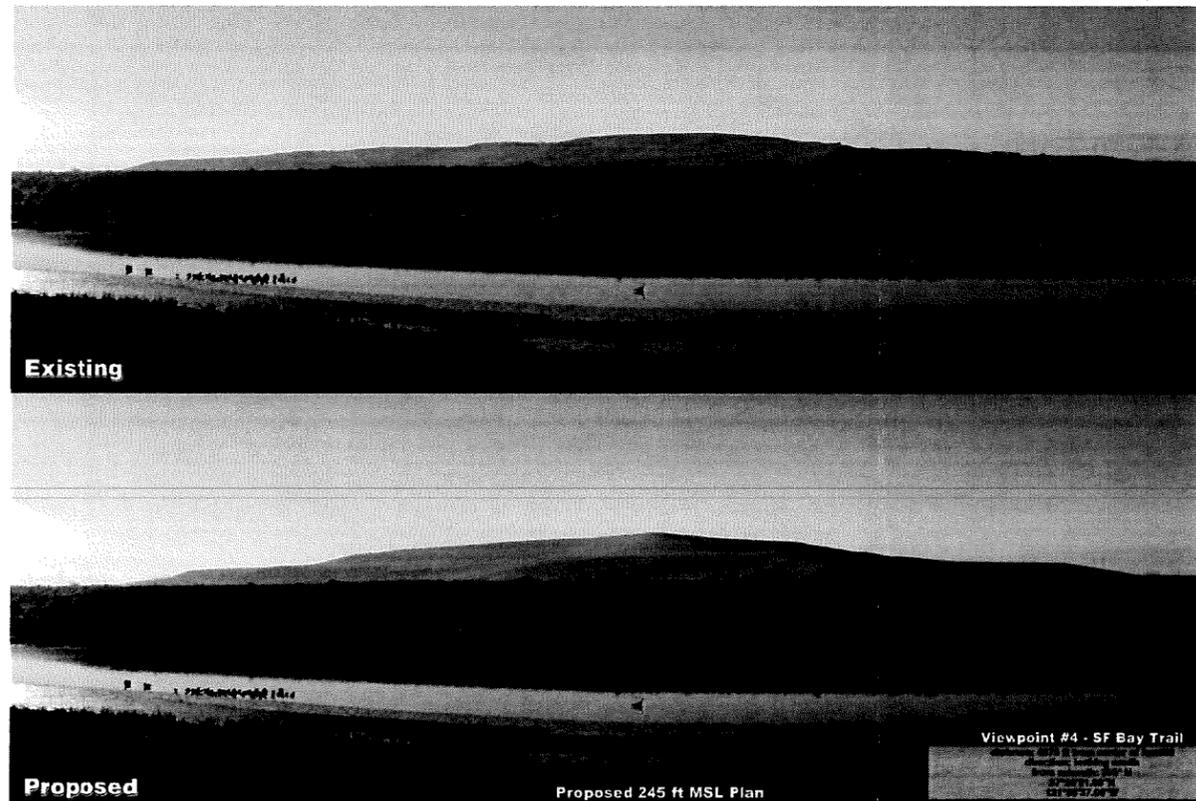
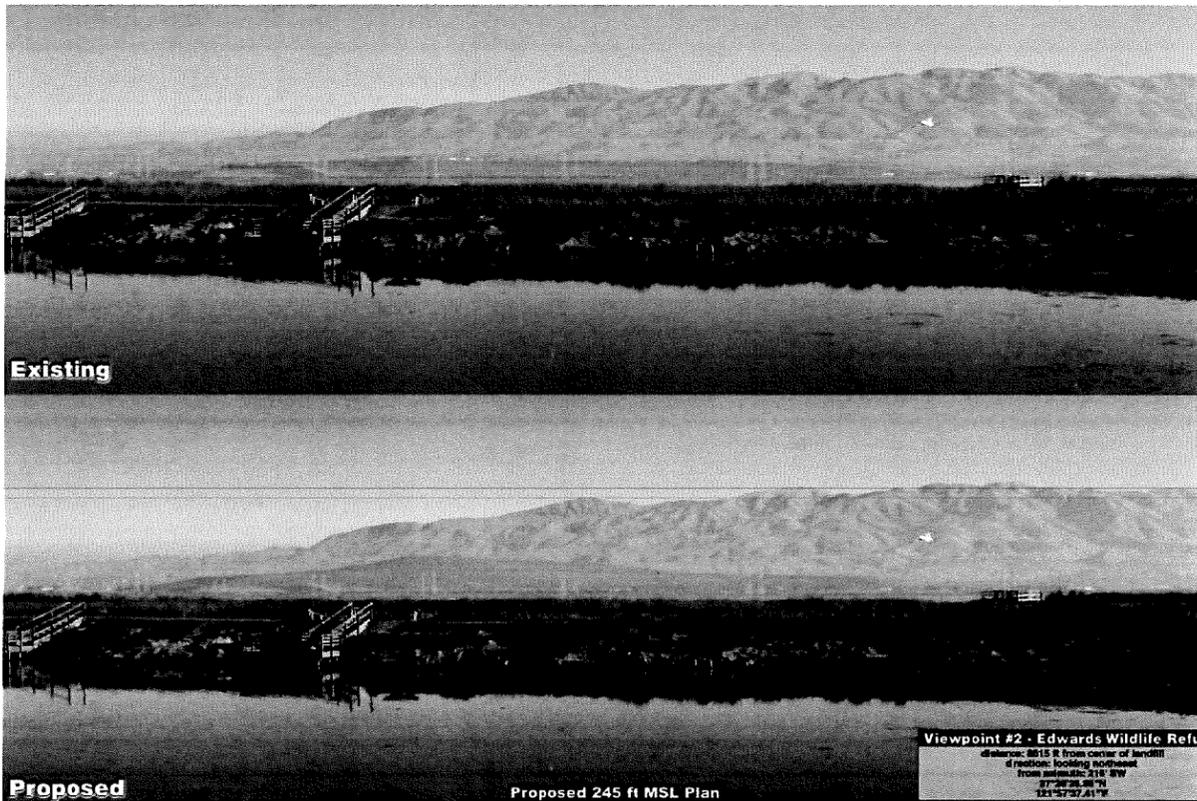
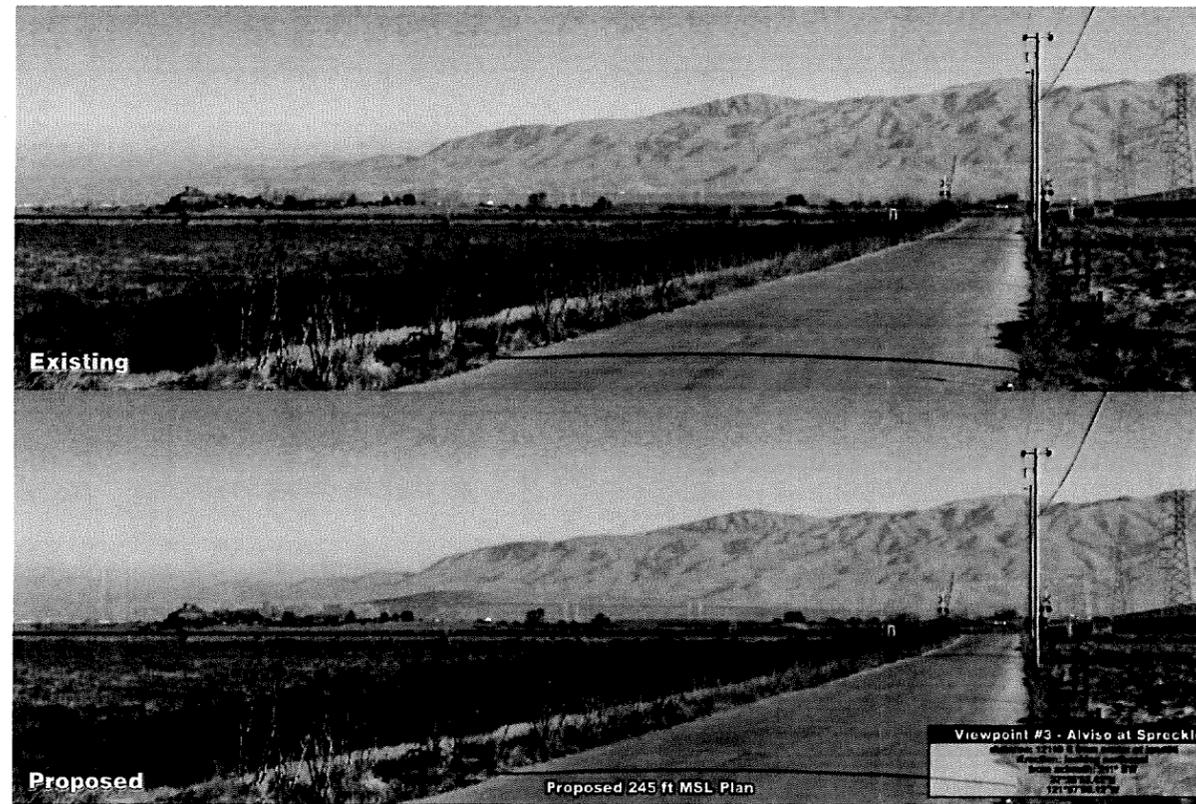
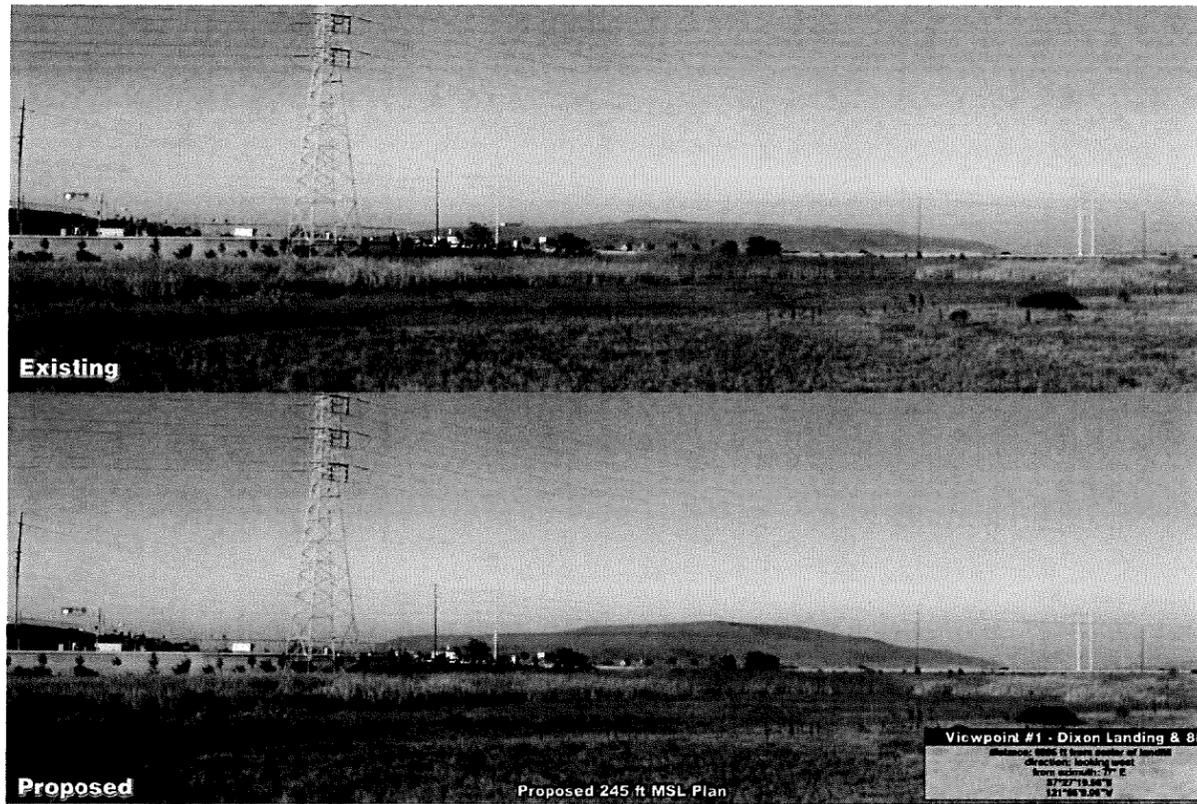
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 CAD DWG FILE: 362800A.DWG
 DESIGNED BY: ML
 DRAWN BY: ML
 CHECKED BY: RTH
 DATE: 9.5.2008
 SCALE: NOT TO SCALE
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AERIAL EXHIBIT

PLOTTED: 5/10/15 10:02 AM

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR USE OF SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THE REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND ANY THIRD PARTIES FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR HMM.

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PLANNED DEVELOPMENT ZONING
PDC07-071
NEWBY ISLAND LANDFILL AND RECYCLERY
INTERNATIONAL DISPOSAL CORP OF CALIFORNIA

NO	DATE	DESCRIPTION
1	4/30/2012	UPDATED LAND USE PLAN
2	9/25/2009	UPDATED LAND USE PLAN
3	8/2/2009	PER CITY COMMENTS
4	7/18/2008	PER CLIENT COMMENTS

PROJECT NO	3628.00
CAD DWG FILE	362800P.S.DWG
DESIGNED BY	ML
DRAWN BY	ML
CHECKED BY	RTH
DATE	9.5.2008
SCALE	NOT TO SCALE

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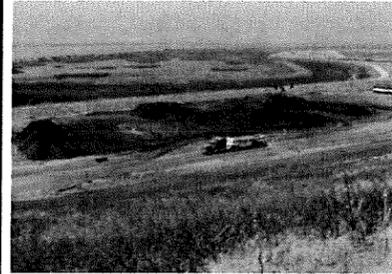
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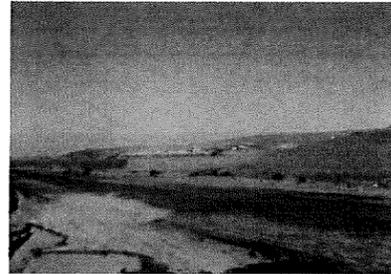
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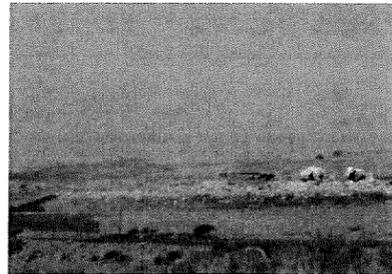
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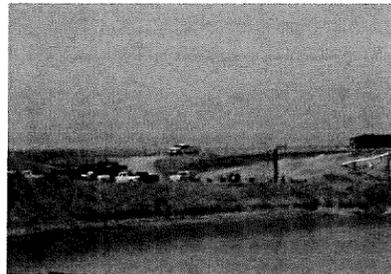
COMPOST CURING AREA



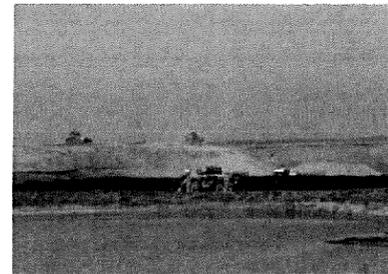
WORKING LANDFILL



WORKING LANDFILL



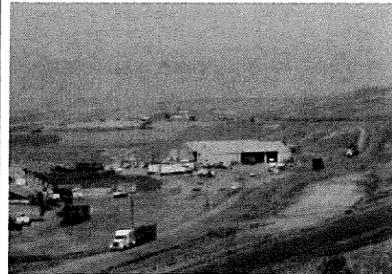
SOUTHWESTERLY AREA OF SITE



SOUTHWESTERLY AREA OF SITE



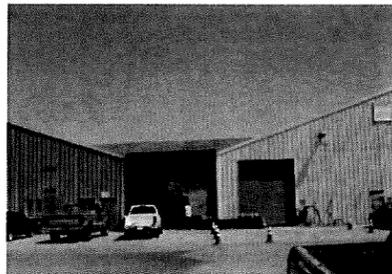
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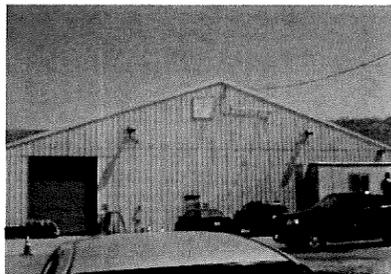
VIEW OF RECYCLERY & LANDFILL SHOP BUILDINGS



SHOP BUILDINGS



SHOP BUILDINGS



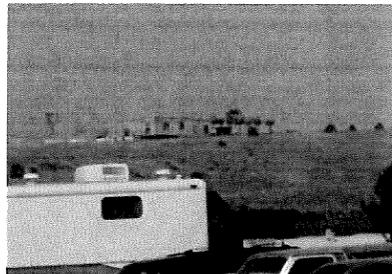
SHOP BUILDINGS



TEMPORARY OFFICE FACILITIES "D" AREA



PARKING & STORAGE "D" AREA



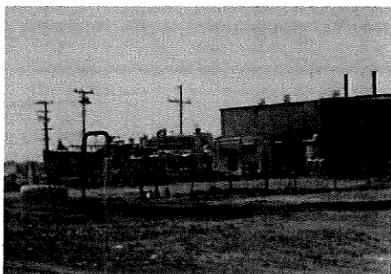
VIEW OF LANDFILL PORTABLE OFFICE FACILITIES



LANDFILL PORTABLE OFFICE FACILITIES



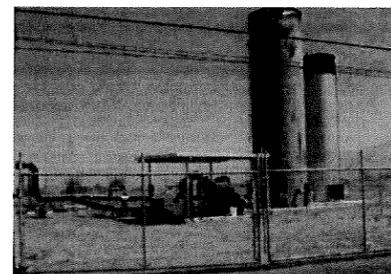
VIEW OF LANDFILL STRUCTURES



LFGTE FACILITY



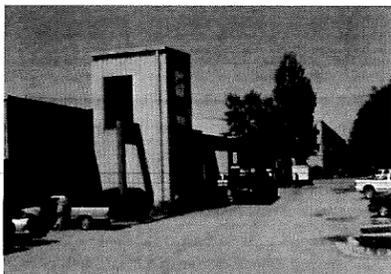
RECYCLERY SCALES



METHANE FLARES



B.F.I. RECYCLERY TO THE SOUTH (SHARED ACCESS ROAD WITH LANDFILL)



HAULING COMPANY OFFICES AND SHOP TO THE SOUTH (SHARED ACCESS ROAD WITH LANDFILL)

ADJACENT USES



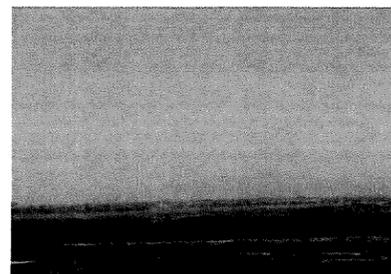
INDUSTRIAL LAND TO THE NORTH (FREMONT)



INDUSTRIAL LAND TO THE EAST (MILPITAS)



COYOTE CREEK & SLOUGH TO THE EAST



S.J./S.C. WATER TREATMENT FACILITIES TO THE SOUTH

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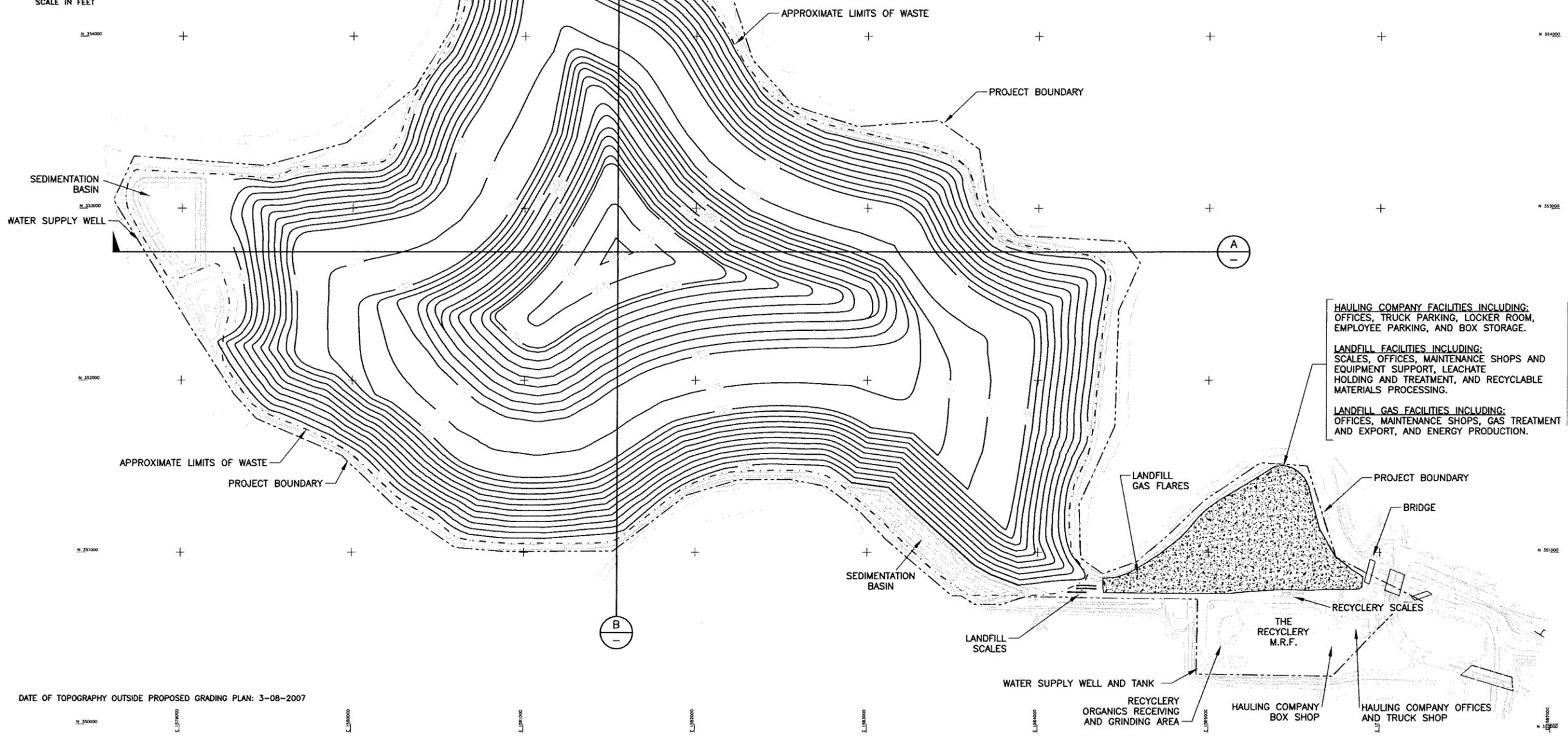
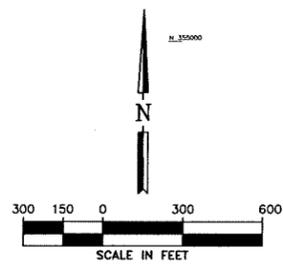


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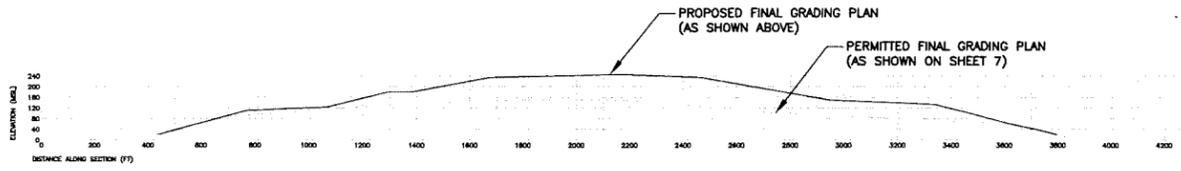
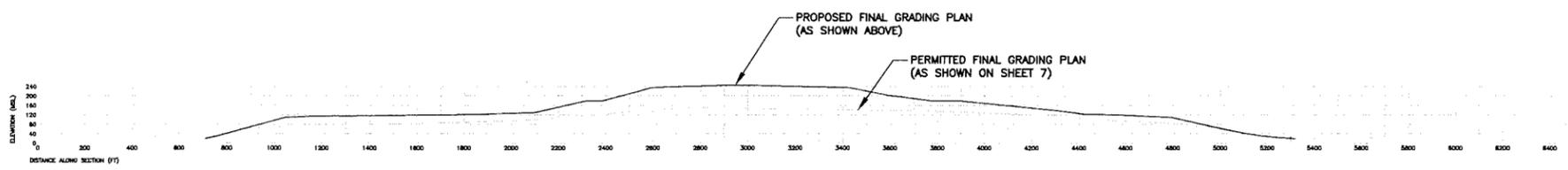
PLANNED DEVELOPMENT ZONING
PDC07-071
NEWBY ISLAND LANDFILL AND RECYCLERY
INTERNATIONAL DISPOSAL CORP OF CALIFORNIA

△		
△	4/30/2012	UPDATED LAND USE PLAN
△	8/25/2009	UPDATED LAND USE PLAN
△	8/2/2009	PER CITY COMMENTS
△	7/18/2008	PER CLIENT COMMENTS
NO	DATE	DESCRIPTION
		PROJECT NO: 3826.00
		CAD DWG FILE: 362809PL.DWG
		DESIGNED BY: ML
		DRAWN BY: ML
		CHECKED BY: RTH
		DATE: 8.5.2008
		SCALE: NOT TO SCALE
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EXISTING CONDITIONS



DATE OF TOPOGRAPHY OUTSIDE PROPOSED GRADING PLAN: 3-08-2007



Revisions	Sym	Description	Date	App

NEWBY ISLAND SANITARY LANDFILL AND THE RECYCLERY
 INTERNATIONAL DISPOSAL CORP OF CALIFORNIA
 1801 DIXON LANDING ROAD
 MILPITAS, CA 95035

BAS
 BRYAN A. SHIBATA & ASSOCIATES
 CIVIL ENGINEERS
 1340 VALLEY VISTA DRIVE
 DIAMOND BAR, CA 91765 (909) 890-7777

Design: [] Drawn: [] File: []
 Chkd: [] Appd: [] Date: 2/18/08

PLANNED DEVELOPMENT PERMIT

PD

PROPOSED FINAL GRADING PLAN

SHEET C-8

Rev 2

