

PLANNING COMMISSION MEMORANDUM

Date: January 26, 2023

Item: No. 1 – at or after 1:05 p.m.

From: Blake Hillegas, Project Planner

Subject: Continued hearing on an appeal of the Design Review Committee’s final design review approval of a bus storage yard with bus driver parking (Phase II File No.: DRH22-0008) West County Transportation Agency (WCTA)

CEQA Review: Previously adopted Mitigated Negative Declaration

Prior hearing date: December 1, 2022

Property Owner: West County Transportation Agency

Applicant: Steve Petcavich on behalf of property owner

Address: 3300 Juniper Avenue, Santa Rosa

Supervisorial District: 3

Recommended Actions:

- Hold continued public hearing on the appeal of the Design Review Committee’s approval of the final design review application DRH22-0008. Close the public hearing.
- Approve a revised draft resolution upholding in part and denying in part the appeal and approving the design review application subject to modified conditions of approval.

Prior Planning Commission Hearing and Direction:

During a public hearing held on December 1, 2022, Permit Sonoma staff recommended that the Planning Commission deny the appeal and conditionally approve the final design review application, File No. DRH22-0008 as approved by the Design Review Committee. The staff report and all attachments for the December 1 hearing are attached to this item. After the presentation from both the applicant and appellant the Planning Commission indicated that most items of the appeal, including consideration of the project use permit conditions of approval (File PLP98-0050), bus and vehicle limitations, berm location and design, drainage, landscaping for visual screening, and the issue of back up beepers had been sufficiently addressed.

After the applicant preliminarily agreed to turn off the parking lot lighting from 6 p.m. to 6 a.m., the Planning Commission indicated general support for the Phase II project, including the proposed lighting design and 80 bus parking spaces with 80 bus driver parking spaces subject to modified design review conditions of approval. The Planning Commission directed staff to modify the conditions of approval to require relocation of the proposed north and west property line fencing to the inside of the perimeter berms and indicated the fencing should not contain plastic slats. The Planning Commission also

requested an updated site plan showing how the permitted total bus parking on the Phase I and II sites would accommodate no more than 110 bus parking spaces in accordance with File PLP98-0050. It was noted by Commissioner Koenigshofer that if it is determined that security lighting is needed and required to address File PLP98-0050 condition of approval 42 (security lighting), the minimum necessary security lighting, such as a couple of pole lights at reduced heights, could be considered. The Planning Commission voted 5-0 to continue the hearing to January 5 and gave direction to staff regarding obtaining the requested site plan information from applicant and revising the draft resolution and conditions of approval to reflect the Commission's preliminary considerations. As the January 5 meeting was cancelled this appeal item has been re-noticed.

Applicant Correspondence:

On December 8, 2022, the applicant submitted correspondence (Attachment 1), including re-confirmation that WCTA will implement most of the Planning Commission and Design Review Committee's requirements such as increasing landscaping on the berm, adding 36-inch live oaks and six 8'x8' tree well planters at the northwest corner of the site. In addition, warmer color lights (2700 Kelvin) will be utilized in the parking lot., Except for 5 security lights proposed at the south end of the site, lighting is proposed to be turned off from 6 p.m. to 6 a.m.

In response to Planning Commission comments, the applicant has submitted an updated site plan delineating parking for Phase I and II and a revised security lighting proposal and perimeter fence plan. The updated site plan, lighting, and fence design items are covered in greater detail below as these are the items for which the Planning Commission requested further information or detail. The applicant also submitted an email on January 4 with photos showing historic drainage ditches at capacity and on January 5 with photos documenting other chain link fences with slats boarding rural residential properties in the area.

The appellant also submitted additional correspondence on January 3, reiterating and supplementing their appeal which is also covered below.

Staff Analysis:

The discussion below includes the Planning Commission's direction followed by the applicant's response and staff analysis.

1. Site Plan

The Planning Commission directed the applicant to submit an updated site plan for both phases of the bus yard, administrative and maintenance facility demonstrating how the total permitted bus count of 110 bus spaces will be complied with on both sites.

Applicant Response: The applicant has submitted an updated site plan for the Phase I and Phase II sites dated 12/7/2022 delineating bus parking, bus staging spaces for bus maintenance, and employee parking.

Discussion: The updated site plan includes 71 bus parking spaces on the Phase II site and 39 bus parking spaces on the Phase I site for a total of 110 bus parking spaces. In addition, the plan shows 11 bus maintenance staging spaces next to the maintenance shop on the Phase I site. No more than 110 buses may be parked on both the Phase I and II sites at any one time per use



permit PLP98-0050. Twenty-nine employee parking spaces are shown on the Phase I site with 80 employee bus driver spaces shown on Phase II. Modified draft Condition of Approval 27 addresses required conformance with the updated site plan, which conforms with conditions of approval for PLP98-0050. Use Permit PLP98-0050 did not expressly call out or limit employee parking on either the Phase I or Phase II sites but did limit the phase II site to no more than 80 vehicles at one time and both phases to no more than 110 buses parked.

2. Fencing

The Planning Commission directed staff to modify the conditions of approval to include a requirement to relocate the proposed cyclone fencing along the north and west property lines to the inside of the berms and not include plastic/vinyl slats.

Applicant Request: *The applicant had previously indicated a willingness to relocate the proposed fencing to the inside of the berms but is now requesting to keep the fencing at the property lines to improve security and minimize liability from trespass. The applicant suggests the slats are required by Condition of Approval 37 as approved by the Board of Supervisors (PLP98-0050), but is willing to remove them as directed. Condition of Approval 37 only requires fencing with slats where the bus yard would not otherwise be visually screened. With visual screening provided by the berms, fencing with slats is not required where berms are proposed. Nonetheless, the conditions do not prohibit consideration of additional security fencing subject to design review. After the Design Review Committee indicated support for property line fencing, the applicant proceeded to install fence post at the property line locations (see site photos). The applicant now claims he has a right under Civil Code 841 to construct a fence at the property line and that installation of wire mesh property line fencing would be consistent with other fencing adjacent to rural residential uses in the area, including the Sonoma County Transit Property abutting Juniper Avenue and Oasis Drive, located immediately north of the project site. The applicant has submitted additional documentation (photos) showing existing wire mesh fencing on Juniper Avenue at Oasis Drive, along a portion of the northerly property line of the proposed bus yard, and at Oasis Drive and Primrose Avenue (Bellevue Elementary School).*

Discussion: *Civil Code 841 addresses the legal presumptions regarding shared benefit and shared reasonable costs of construction, maintenance, and replacement of property line boundary fencing. The proposed property line fencing would primarily benefit the applicant due to their need for security and to minimize liability.*

In this case, the design and location of the proposed commercial fencing may be regulated subject to design review approval under County Code 26-82-020 (e). The applicant's concerns about security and liability should be carefully considered in determining the appropriate location of the fence. As directed by the Planning Commission, draft Condition of approval 37 has been updated to reflect the Planning Commission's direction from December 1, 2022, to locate the proposed fencing running parallel to the berms to the internal side of the berms and not include slats.

3. Security Lighting:

After the applicant agreed to shut off proposed lighting during non-operational hours (6 p.m. to 6 a.m.), the Planning Commission agreed that the proposed light fixture heights of 20' within the bus driver parking area and 27' feet within the bus parking would be acceptable under these hours restrictions and directed staff to modify the conditions accordingly. Commissioner

Koenigshofer indicated that a minimum level of security lighting, such as 2 motion activated pole lights at reduced heights may be considered if necessary to address condition of approval 42, which requires security lighting.

Applicant Request: The applicant is now proposing to utilize five of the 27-foot-tall lights in the center row of buses facing south for security during nighttime hours, but with no dimming or motion sensor activation (see Attachment 11). The proposed security light fixtures would be located approximately 480 feet from the appellants home, directed south, and would contain fully shielded fixtures and cut off lenses to prevent lighting directed to the north.

Discussion: The Illuminating Engineering Society contains guidelines for security lighting.

https://cdn.fedweb.org/fed-96/2/IES%2520Security%2520Lightingn%2520G-1_web.pdf

The guidelines note that security is not always a concern in lighting design and there should be a risk management analysis to determine actual risk and a comprehensive security counter measure plan, which may include lighting. Lighting is only part of a well-balanced security plan. In some cases, no lighting or a lower lighting profile may be a better approach. The guidelines also recognize that security lighting needs to be appropriate in relationship to the surrounding community and environment. The applicant has submitted photos of issues they have experienced with theft of electronic equipment on buses and vandalism at the existing facility, but a more comprehensive risk assessment does not appear to have been performed to determine whether nighttime security lighting is necessary and if so at what level. Absent more data on security risk and the potential benefits of night lighting as part of a comprehensive security plan, draft Condition of Approval 43 has been revised to address the general direction for fewer and shorter motion activated security lights provided by Commissioner Koenigshofer during the December 1 public hearing.

Appeal and Supplemental Correspondence:

The discussion below references the appeal items covered in the 12/1 staff report (attached) and a discussion response to the supplemental appeal items subsequently submitted on January 3. Of the appeal items covered in the 12/1 staff report a response to the Planning Commission is provided above as directed regarding bus limitations, lighting and fencing. Supplemental appeal correspondence from January 3 is addressed after the 12/1 appeal items noted below.

Appeal items covered in 12/1 staff report:

1. Condition Compliance with PLP98-0050

Careful consideration be given to the Use Permit PLP98-0050 Conditions of Approval and Resolution.

Discussion: As noted above, the Planning Commission asked for clarification on bus parking limitations, lighting, and fencing to confirm that the project will conform with the use permit PLP98-0050. The Planning Commission determined that the use permit did not preclude bus driver parking on the Phase I site provided the overall vehicle limitation of 80 vehicles at one time is adhered to.



2. Bus Storage Yard

Phase II was Permitted as a bus storage yard and conditions of approval limit phase II to no more than 80 vehicles at any one time, and no more than 110 buses on both the Phase I and Phase II sites at any one time.

Discussion: The applicant has provided an updated site plan to address permit compliance for bus parking on both project phases.

3. Back up beepers

Consider requiring the Phase II bus circulation layout to be consistent with the conceptual layout shown on the Phase I plans approved by the DRC in 2000. The Phase I plans showed a Phase II conceptual layout where buses would not have to back up into their spaces, thereby avoiding use of their backup beepers.

Discussion: The Planning Commission indicated support for the bus parking circulation proposal because it would not result in backup beepers in the more sensitive early morning hours as required by use permit conditions of File PLP98-0050.

4. Berm Landscape Design

Consider requiring the berms be set back farther and that landscaping include a hedge of redwood trees, similar to the redwood trees planted around the Phase I facility.

Discussion: The Planning Commission indicated support for the proposed landscape and berm design and location as modified in response to the Design Review Committee.

5. Lighting

Consider requiring the minimum light necessary by incorporating fewer lights and lower height light fixtures on dimmers and timers to allow power shut off. Appellants are concerned about lighting being on all night, and state that lighting of the interior of the yard is both not necessary for security and in violation of the 1999 conditions.

Discussion: The Planning Commission supported the applicant's proposal to shut off general site lighting from 6 p.m. to 6 a.m. See Discussion above regarding proposed security lighting.

6. Drainage and Erosion

Consider requiring the slope of the berm along the western property line to be more gradual and that a landscaped drainage swale be added. Appellant states they have observed erosion from the berm and standing water after rain.

The Planning Commission did not express any concerns with the drainage and erosion as these features are required to be designed by civil engineers in accordance the County grading and drainage ordinance. County grading inspectors have observed drainage features functioning consistent with the plan design, even during recent storms.

7. Security Fencing

Consider requiring the proposed chain link security fencing proposed along the north and west property lines to be located inside of the berm.



Discussion: See discussion above regarding fencing.

8. Electric Vehicle Charging Stations

Consider not allowing electric vehicle charging stations because they would generate a humming noise and Use Permit PLP98-0050 Conditions of Approval prohibit refueling on the western Phase II parcel, in part to limit noise.

Discussion: The Planning Commission did not express concern regarding proposed electrical vehicle charging stations.

9. Wetland Mitigation

Provide documentation demonstrating that requirements for wetland mitigation have been met.

Discussion: The Planning Commission did not express concern regarding documentation provided demonstrating that resource agency clearances for wetland, plant and tiger salamander impacts were properly secured.

January 3 Appellant Correspondence

1. The appellant claims the Use Permit has expired

Discussion: By Resolution No. 99-0154, the Board of Supervisors approved a use permit with conditions of approval for the entire project, covering both phases I and II. Both the text of Resolution 99-0154 and the attached conditions of approval contemplated that phase II of the project (on the western parcel) would be completed at a later, unspecified date. No time limit was specified for phase II to be carried out. Given that the use permit covers the entire project and phase I is complete, the use permit has been “used” within the meaning of Sonoma County Code sec. 26-92-130 and is not expired.

2. Wetland Mitigation

The appellant continues to claim that Wetland Mitigation has not been adequately addressed in accordance with use permit conditions of approval.

Discussion: As noted above, Board of Supervisors Resolution 99-0154 and the attached conditions of approval did not specify a time limit for phase II of the project.

Condition 40 provides as follows:

The westerly portion (one acre) of APN 134-074-022 shall be permanently set aside for wetlands mitigation and an open space easement shall be recorded over it. If an alternative wetlands mitigation site is found at a later date that is recommended by the State Department of Fish and Game and approved by the County Permit and Resource Management Department, the applicant may apply to rescind the open space easement over APN 134-07 4-022 after a new open space easement has been applied over the alternative site. Wetland areas to be disturbed on the eastern portion of the parcel shall be mitigated through creation of at least an equal amount of new wetland area in the set aside area. **Alternately, the applicant shall purchase an equal value of Wetlands Mitigation Bank**



Credits. All applicable U.S. Army Corps of Engineers and Fish and Game permits shall be obtained prior to disturbance of any wetland area.

Finding F.(b) of Resolution 99-0154 clarifies the Board's intent in adopting this mitigation measure as a condition of approval. *The conditions of approval require that the loss of any wetlands on site be fully mitigated by either; 1) creating an on-site wetlands set aside area covered by a permanent open space easement, or 2) creating an offsite wetlands mitigation area covered by a permanent open space easement, or 3) purchase of an equivalent amount of credits from a wetlands mitigation bank. In all cases the loss of any wetlands must be mitigated in a ratio of at least 1: 1, and be reviewed by the State Department of Fish and Game and approved by the PRMD.*

As shown in the attachments to the staff report for this item (Resource Agency Clearances), the applicant purchased 1.6 acres of combination mitigation bank credits for 1.04 acres of wetlands and listed plants (1:1.5 ratio) and 5.47 acres of California tiger salamander upland habitat credits (1:1 mitigation) from approved mitigation bank sources.

Staff Recommendation:

- Hold continued public hearing on the appeal of the Design Review Committee's approval of the final design review application DRH22-0008. Close the public hearing.
- Approve a revised draft resolution upholding in part and denying in part the appeal and approving the design review application subject to modified conditions of approval.

Attachments

Att 1 Draft Conditions of Approval

Att 2 Vicinity Map

Att 3 General Plan Land Use

Att 4 Aerial Photo

Att 5 Applicant's December 8, 2022 Correspondence

Att 6 Applicant's January 4 Correspondence

Att 7 Applicant's January 5 Correspondence

Att 8 Updated Site Plan for Phase I and Phase II

Att 9 Site Lighting Perspective with 20 and 27 Ft. Tall Fixtures (shut off 6 p.m. to 6 a.m.)

Att 10 Site Lighting Photometrics with 20 and 27 Ft. Tall Fixtures (shut off 6 p.m. to 6 a.m.)

Att 11 Site Security Lighting Perspective with Five 27 Ft. Tall Fixtures directed south with cut off shields

Att 12 Photos Site Drainage Swale and Fence Posts at North and West Property Lines

Att 13 Drainage Ditch Pictures and Street View

Att 14 Photos of Theft and Vandalism in Area

Att 15 Appellant's Supplemental Appeals Letter

Att 16 Wetland, Plant and CTS Clearances

Att 17 1999 BOS Resolution and Conditions of Approval

Att 18 1999 Mitigated Negative Declaration

Att 19 December 1, 2022 Planning Commission Staff Report and Materials

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Att 20 Draft PC Resolution

