



County of Sonoma
Permit & Resource Management Department

Sonoma County Board of Zoning Adjustments Draft Minutes

Permit Sonoma
2550 Ventura Avenue, Santa Rosa, CA 95403
(707) 565-1900 FAX (707) 565-1103

September 22, 2022
Meeting No.: 22-11

Roll Call

Absent, District 1
Larry Reed, District 2
Kevin Deas, District 4
Eric Koenigshofer, District 5
Jacquelynne Ocaña, Chair, District 3

Staff Members

Scott Orr, Staff, Deputy Director
Cecily Condon, Division Manager
Adam Sharron, Planner I
Blake Hillegas, Supervising Planner
Liz Goebel, Secretary
Jennifer Klein, Chief Deputy County Counsel

1:00 PM Call to order, Roll Call and Pledge of Allegiance.

Approval of Minutes Draft BZA minutes approved for May 26, 2022, June 2, 2022, and August 25, 2022

Correspondence None

Planning Commission/Board of Supervisors Actions None

Commissioner Announcements None

Public Comments on matters not on the Agenda: 0h5m
No comments

Public Comments on matters not on the Agenda will resume at the end of the hearing.

Items scheduled on the agenda:

Board of Zoning Adjustments Regular Calendar

Item No.: 1
Time: 1:05 PM
File: UPE01-0181
Applicant: Ghilotti Construction Company, Inc.
Owner: Investor's Development Company
Cont. from: 08/25/2022
Staff: Adam Sharron

Env. Doc: Mitigated Negative Declaration

Proposal: Request for a Use Permit to legalize a contractor's equipment and materials storage yard and periodic processing of asphalt, cement, concrete, and soil, including the use of crushing equipment, on approximately 18 acres of a 19-acre parcel. The application will address a 2016 settlement agreement between the applicant and the County.

Recommended Action: Staff recommends that the Board of Zoning Adjustments adopt the Mitigated Negative Declaration and approve the request, with conditions, for a contractor's equipment and materials storage site, soil stockpile, and periodic processing of broken asphalt and concrete materials for recycling.

Location: 304 Todd Rd., Santa Rosa

APN: 134-171-050 and 134-171-049

District: Five

Zoning: Limited Rural Industrial (M3), Valley Oak Habitat (VOH)

Commissioner Disclosures None

Staff Adam Sharron summarized the staff report, which is incorporated herein by reference. **0h6m**

Commissioner Questions:

Commissioner Koenigshofer asked about Condition 14D, which states that peak hours of operations may commence once interim intersection improvements are implemented. **Staff Adam Sharron** confirmed. **0h9m**

Commissioner Koenigshofer asked about the revision to the operation's portable restroom facilities in Condition 38, to include the third alternative of using restrooms in the existing offices on site; mentioned it is not on the list in the presentation. **0h9m**

Commissioner Koenigshofer asked about the W-Trans analysis which found the proposed four-way stop to be viable, and whether the condition language needs to be changed based on the conclusion. **Staff Blake Hillegas** responded that **Staff Janice Thompson, Deputy Director of Department of Transit and Public Works (DTPW)** had already reviewed the verbiage and found it appropriate. **0h12m**

Staff Scott Orr mentioned Applicant sent an e-mail prior to the meeting relating to language in the conditions, potentially requesting removal of Conditions 39 and 43. The e-mail will immediately be sent by the secretary to all commissioners and posted online to be a part of the record. **0h13m**

Public Hearing Opened: 1:15 PM

Applicant Dale Mahoney of Ghilotti Construction came in to clarify requests. Condition 39 regarding solid waste; previous discussion on August 25th was it would require a trash disposal enclosure. Applicant and team were under impression it would not be required; requested it struck from condition. Condition 43 regarding sewer disposal system, previous discussion was about coming up with a written agreement between the two separate properties, which they are willing to do and will provide porta-potties for restroom facilities. Regarding other items involving Condition 13; they are cleaning up timing of improvements and tying to grading permit rather than use permit. Condition 14D regarding traffic restriction; Applicant has issue with language and interprets it as restricting yard usage until 4 p.m. daily, which is more restrictive than current policy. Applicant found this unwarranted, as they are not adding any traffic to current configuration of the intersection. Applicant spoke with **DTPW Staff Janice Thompson** regarding intersection improvements based on W-Trans report, who was pleased with it, and she requested a drawing to be submitted to her to bring to the Board of Supervisors agenda for approval. **0h14m**

Staff Adam Sharron clarified in terms of 13E, they could revise with "if required" language. Asked for confirmation from supervising staff about 13B and 13C. **Staff Cecily Condon** agreed that the change makes sense, as Ghilotti needs grading permit involved to move materials around. Initially was use permit to make sure that it would stay timely, as there are additional construction materials referenced that would not be specifically related to grading permit. **0h19m**

Applicant Dale Mahoney clarified that 13A is tied to movement of materials up on front parcel which will continue to tie to use permit. Once use permit is approved, he understands they have 30 days to move materials. 0h20m

Staff Scott Orr advised that it would be helpful if they want to get to a decision at current meeting and make it the last one, focus on going item by item, clearly reference one condition at a time, and decide on each one separately. 0h20m

Commissioner Ocaña suggested starting with Condition 13; asks Applicant if 13A is fine. **Applicant Dale Mahoney** confirmed no changes to 13A and reiterates request that 13B language is changed from “use permit” to “grading permit.” 0h21m

Commissioner Ocaña asked staff whether bathrooms should be tied to use permit, and if they find it appropriate to tie it to grading permit. 0h22m

Staff Cecily Condon clarified Conditions 13A and 13B are not related to restroom facilities. 0h22m

Commissioner Ocaña asked to clarify whether Condition 13A and 13B should be associated with the grading permit. 0h23m

Commissioner Koenigshofer mentioned that given accommodation built into condition, Applicant doesn't have to do any “toilet stuff” on site, and only needs to file a license in agreement that confirms arrangement between subject parcel and adjoining property. Other language can be retained as it relates to the possibility that in the future, a different owner may make use of their property for use permit that runs with land and may need to create their own on-site system. He is opposed to the change regarding language in 13B. 0h23m

Applicant Dale Mahoney said they will accept the continued use permit status and withdraws change request on Condition 13B. 0h26m

Commissioner Ocaña asked Applicant about thoughts on condition 13C, regarding stockpile being reduced as the berm is built. **Applicant** responded that to accomplish this, they will need the grading permit. 0h26m

Staff Cecily Condon agreed the permit should be changed to grading rather than use. 0h27m

Commissioner Reed commented about Condition 14D and asked for clarification from staff, as he finds it unclear as written. **Staff Adam Sharron** clarified the language states that until improvements requested by W-Trans, in consultation with DTPW, are added, the yard should close daily at 4 p.m. 0h30m

Applicant Dale Mahoney commented that they take issue with this condition, as current yard is not restricted, and they are not adding any truck traffic. Control of timing of improvements are all under DTPW. They believe it is overly restrictive and unwarranted at this point. 0h31m

Commissioner Koenigshofer mentioned current yard is not operating or restricted and asked if that was because they do not have a permit. **Applicant Dave Mahoney** said they have permission from the director of PRMD to operate the yard under the current conditions. **Commissioner Koenigshofer** said they are there to consider use permit to legalize an equipment material storage yard. **Applicant Dave Mahoney** said Condition 14D puts an additional restriction on what PRMD is currently requiring, for something that is not under their control. **Staff Adam Sharron** said the conditions proposed at the August 25th BZA originally read “*until the realignment of Todd Road, Standish Avenue, Ghilotti Avenue and signal are constructed and operational, project construction yard shall close daily at 4 p.m.*” and is now updated to “*until interim level of service improvements are approved by DTPW are constructed at Todd Road, Standish Avenue, and Ghilotti Avenue, the yard shall close daily at 4 p.m.*” Original language proposed in August states that there would be no peak hour usage. 0h31m

Commissioner Koenigshofer commented that the BZA came up with a way to shave years off of what the condition originally required. **Applicant Dave Mahoney** said they originally discussed the closure hours being overly restrictive and believes there was an agreement that this was beyond their control and unreasonable to further limit their hours. 0h33m

Staff Scott Orr commented that from a procedural standpoint, he recommends either approving what was expected to approve today based on the facts at hand or continue this item to another date and take more time to look into the conditions. **0h34m**

Commissioner Ocaña agreed and mentioned not recalling a discussion about adjusting hours at the August 25th meeting. Said there are not many significant changes but would like to understand what Applicant is asking to change, item by item. Feels like they are “not quite there yet,” and asked for input from other commissioners. **0h34m**

Commissioner Deas said he feels fine with moving forward but doesn’t want to make any major changes on the fly. **0h35m**

Commissioner Reed agreed and also did not recall conversation about operation hours. The intention of the BZA was for **Commissioner Koenigshofer** to prepare traffic study to move things forward. Mentioned that if staff is taking issue with Conditions 39 and 43, they will need time to digest the new information. **0h36m**

Commissioner Ocaña suggested going through a couple requests that do not need change, tabling Condition 14D since they are not prepared to discuss and determine whether they can accept minor changes to move forward, or if Applicant is not in agreement, meeting will have to be continued to another date. **0h36m**

Commissioner Ocaña asked if everyone agrees about Condition 13C – changing use permit approval to grading permit approval. **0h37m**

Commissioner Koenigshofer mentioned 13C coordinates with 13F, making it a grading permit instead of use permit. Asked if Applicant is saying it is impossible to satisfy condition as written for 13C because they cannot move dirt without a grading permit, and had the operation been moving dirt around in the recent past. **Staff Blake Hillegas** said Applicant was directed to not move dirt on property while use permit legalization is pending, and have been compliant. **0h38m**

Commissioner Koenigshofer asked to clarify whether the requested change from use permit to grading permit approval in Condition 13C is tied to timeline of Condition 13F. **Staff Blake Hillegas** said he is correct; Applicant cannot reduce height of stockpile without a grading permit, which is tied to construction of berm and legalizing existing fill on site, so in that regard Conditions 13C and 13F are tied together. **Commissioner Koenigshofer** asked about time limitation on period between approval and when Applicant is required to submit material and application for grading permit. **Staff Cecily Condon** said 13D requires Applicant must submit applications and plans for final design review, grading, and building permits, specifically including grading permit for berm, within 60 days. **0h41m**

Commissioner Koenigshofer asked to clarify that Applicant must file application for grading permit, and once approved, it is in hands of PRMD for processing. At this point, Applicant would have 30 days to reduce the height. If that is the case, he has no objection to modifying 13C to grading permit. **0h41m**

Commissioner Ocaña agreed and moved on to Condition 13E; asked about toilet facility requirements. **Staff Cecily Condon** clarified the toilet facilities must be secured for project, and if there is an agreement to use off-site facilities, there is no requirement to construct within 60 days. **Staff Scott Orr** clarified that staff views this as more of a recommendation. **0h43m**

Commissioner Ocaña mentioned they will table Condition 14D, as it will be an issue. **0h43m**

Commissioner Ocaña moved on to Condition 39. **Staff Scott Orr** clarified request from Applicant to remove condition entirely, but staff does not recommend removing the condition at this meeting. **0h44m**

Staff Blake Hillegas mentioned an option on Condition 39 to add language to beginning of condition: “...*unless otherwise approved prior to building permission, that they shall then implement that condition.*” This gives Applicant ability to apply for waiver of refuse collection requirement on property. Commercial facilities are required to have refuse collection, with ability to waiver. Applicant would have to justify waiver, so it would still be required unless otherwise approved. **0h44m**

Commissioner Koenigshofer said this condition is standard and does not support making alterations. 0h45m

Commissioner Ocaña asked Applicant why he wants condition removed. **Applicant Dale Mahoney** mentioned they will not produce refuse in the “normal pattern” that an apartment complex or office building might. The refuse is typically a byproduct of crushing operation where they are pulling out rebar. With 14’ overhead clearance, he cannot load bins with it. Current bins are outside, covered, and disposed of through franchise agreement. He is good with the recommendation of **Staff Blake Hillegas** to be able to request a waiver and accepted the proposed modification to the language. 0h46m

Staff Scott Orr clarified that staff does not support removing the entire condition, but a modification allowing for the waiver process is supportable and appropriate. 0h48m

Commissioner Koenigshofer asked Applicant about residual material like rebar – if it is not going in a conventional four-cubic-yard bin, where is it going? Applicant responded they use a 20-yard bin that goes to recycler. **Commissioner Koenigshofer** said the condition doesn’t apply in that case. 0h48m

Commissioner Ocaña asked **Commissioner Koenigshofer** how he feels about modified language suggested by PRMD staff. 0h48m

Commissioner Koenigshofer said the standard condition would be an enclosure around two-to-four-yard bins loaded with a front loader, disposed in landfill. Applicant’s operation is a roll-off box, 20-yard open-top container receiving recyclable metals, and source-separated – not a standard condition. 0h49m

Applicant Dale Mahoney replied the conversation is essentially about building a restroom facility for two people theoretically working on-site up to 70 days a year; it is overly restrictive to build enclosed area for a four-yard bin when they won’t generate that much garbage over a year. 0h50m

Commissioner Koenigshofer asked if Applicant intends to have conventional commercial waste disposal, trash, and recycling bins as part of the project. **Applicant Dale Mahoney** said it is not his intention. 0h51m

Chief Deputy County Counsel Jennifer Klein commented - if this type of trash disposal is not part of the project, language can stay in and will not affect Applicant. Change of condition is not necessary. 0h52m

Commissioner Reed agreed, and said the condition requests a design for approval. Applicant can provide design for what they want to recycle. Applicant may apply for waiver if needed. He is okay keeping condition as-is. 0h53m

Commissioner Ocaña asked how Applicant feels about leaving condition as-is. 0h53m

Applicant Dale Mahoney mentioned “some things were not carried over” from August 25th meeting the way his team understood. They understood as, “applicant must submit design for trash enclosure and recycling areas for review.” Current condition language goes beyond, requiring 14-foot overhead clearance with additional five-foot clearance at locations bins are kept. If everyone understands the usage - a separate enclosure will not be required for incidental waste – he is okay with leaving condition as-is. 0h54m

Chief Deputy County Counsel Jennifer Klein suggested adding clarity to condition; it is designed for trash, disposal, recycling areas. If Applicant wants to make clear it is for a dumpster, if any, and if they do not or never will have dumpsters, the condition will not apply. 0h55m

Commissioner Ocaña asked Applicant if he is comfortable leaving condition language as-is or requires revision. **Applicant** is comfortable leaving it as-is. 0h57m

Commissioner Ocaña moved on to Condition 43 and asked to clarify Applicant wants it removed. **Staff Scott Orr** confirmed the condition includes “as applicable” language; all future sewage disposal systems must be completed to certain standards. If it is applicable it applies, if not applicable it does not apply. He is not comfortable removing the condition. 0h57m

Applicant Dale Mahoney said he will accept the “as applicable” wording as-is. 0h58m

Commissioner Ocaña moved on to Condition 14D. Asked Applicant if he has comments, or if he is okay with leaving condition in as-is. 0h59m

Applicant Dale Mahoney asked if the 4 p.m. closing time is a requirement of DTPW or PRMD. **Staff Cecily Condon** said it is required by DTPW as a condition of approval related to general plan level of service requirements. 0h59m

Applicant Dale Mahoney asked if it is possible to bring DTPW into the conversation. **Staff Scott Orr** said it is not possible, and if Applicant wants to make modifications to condition, a decision will not happen at current meeting. **Applicant** replied he waives objection to the condition. 1h0m

Public Hearing Closed, and Commission discussion Opened: 2:02 PM

Action: **Commissioner Koenigshofer** motioned to approve as recommended by staff with revised conditions. Seconded by **Commissioner Reed** and approved with a 4-0-1 vote. 1h2m

Appeal Deadline: 10 days

Resolution No.: 20-09

Vote:

Commissioner Gilardi	Absent
Commissioner Reed	Aye
Commissioner Deas	Aye
Commissioner Koenigshofer	Aye
Commissioner Ocaña	Aye

Ayes: 4

Noes: 0

Absent: 1

Abstain: 0

Public Comments continued for items not on the Agenda: 1h2m

No Comments

Public commenters that want to receive future hearing notices regarding a project or topic

No requests received at hearing.

Hearing Closed: 2:04 PM