

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

CONDITIONAL USE PERMIT CASE NO. 00-194-(5)

COMMISSION HEARING DATES:

December 1, 2004, January 12, 2005, April 6, 2005, August 10, 2005, and November 3, 2005

SYNOPSIS:

The applicant, Browning Ferris Industries ("BFI"), has requested a Conditional Use Permit to authorize modifications to Conditional Use Permit 86-312 which authorizes the operation of the Sunshine Canyon landfill, a Class III landfill. The landfill property straddles the jurisdictional boundary line between the County and the City of Los Angeles. Landfill operations are currently taking place as two separate landfills; one in the County portion of the property, as provided for by the County CUP and also in the City as provided by a City Ordinance. In 1993, at the time of approval of the County CUP, the Board of Supervisors contemplated the development of a combined City/County landfill and directed the permittee to pursue City land use entitlements for such development. In 1999 the City Council approved a General Plan amendment and zone change allowing the establishment of a City as well as for a future joint City-County landfill. The applicant is requesting modifications to the County CUP to facilitate the development of a combined City-County landfill and to make the permit consistent with the City approved entitlements.

The subject property is located at 14747 San Fernando Road in the Granada Hills area of unincorporated Los Angeles County and within the Newhall Zoned District.

PROCEEDINGS BEFORE THE COMMISSION:

December 1, 2004 Public Hearing

A duly noticed public hearing was held. All Commissioners were present. The Commission heard presentations from County Staff, the applicant's presentation as well as testimony from proponents of the project. The hearing was continued to January 12, 2005 to be held in the community at the Granada Hills High School.

January 12, 2005 Public Hearing

The continued public hearing was held on January 12, 2005 at the Granada Hills High School. Commissioner Bellamy was absent. The Commission heard continued testimony from proponents and opponents to the project. The hearing was continued to April 6, 2005.

April 6, 2005 Public Hearing

The continued public hearing was held on April 6, 2005. All Commissioners were present. The Commission heard testimony both in favor of and in opposition to the project. The hearing was continued to August 10, 2005 to allow a review of the proposed fees for the project.

August 10, 2005 Public Hearing

The continued public hearing was held on August 10, 2005. All Commissioners were present. The Commission heard testimony and thereafter instructed staff to prepare a final draft of the conditions to be made available to the public by October 3, 2005. The hearing was continued to November 3, 2005, with comments to be limited to the conditions.

November 3, 2005 Public Hearing

The continued public hearing was held on November 3, 2005. Commissioner Bellamy was absent. The Commission heard testimony opposed to the project and a rebuttal from the applicant. After Commission discussion motions to approve and deny the project both failed (2-2 to deny, 2-2 to approve). The public hearing was closed and the item continued to November 21, 2005 for voting purposes. Commissioner Bellamy was instructed to listen to the tapes of the November 3, 2005 proceedings.

November 21, 2005 Discussion/Action

A duly noted continued discussion was held on November 21, 2005. All Commissioners were present. After deliberation, the Planning Commission expressed its intent to **DENY** the request by a vote of 3-2, and instructed staff to prepare findings for denial.

Findings:

1. The applicant is requesting modifications to a previously approved CUP No. 86-312-(5). The requested modifications generally fall into the following four categories:
 - a. To increase the amount of waste permitted to be filled within the County's jurisdiction on a daily basis from 6,000 tons to 12,100 tons and from 36,000 tons to 66,000 tons on a weekly basis. This quantity of waste would be the aggregate sum of waste intake approved by both the County and the City and could be disposed of anywhere within the footprint of the overall landfill, irrespective of jurisdiction. A larger total working face area is also requested.
 - b. New conditions consistent with measures imposed by the City to reduce environmental impacts, such as a reduction in operating hours.
 - c. Refinements to the permit which would eliminate limitations and requirements having no benefit, such as watering of surfaces on rainy days; and
 - d. Changes to the conditions of approval which recognize unusual circumstances that may require temporary extended hours or increases in tonnage.

In addition to the amendments requested by the applicant, staff also recommended modifications and additional conditions as a result of the County's involvement with solid waste management issues including compliance with AB 939 requirements.

2. The subject property is located adjacent to and southwest of the interchange of the I-5 (Golden State) and Route 14 (Antelope Valley) Freeways, near the communities of Sylmar and Granada Hills and in the Newhall Zoned District. Access to the County landfill is taken at 14747 San Fernando Road.
3. The applicant's overall property consists of an area of approximately 1,528 acres. The property is divided between the City and County of Los Angeles. The City portion encompasses an area of approximately 494 acres and the County area is 1,034 acres in size. The landfill facility area, approved under the County CUP, is 542 acres. The 492 acre balance of the applicant's current ownership/ control area, within unincorporated territory, is to remain undeveloped. The approved County only landfill footprint area is approximately 215 acres, exclusive of support facility sites, approved with a then-estimated waste capacity of 16.9 million tons.
4. The site is characterized by hilly terrain. The property takes access from San Fernando Road within the City. A paved driveway leads from the gated entry to the scale house and scales, and then to administrative facilities and a caretaker house, both of which are presently located within the County. As the landfill operations proceed, the administrative facilities, caretaker house and scale house and scales would eventually be relocated to the southeast, within the City portion of the site, and the driveway realigned accordingly.
5. The subject property is zoned A-2-2 (Heavy Agricultural-Two Acre Required Area).
6. The surrounding properties to the north, south and west of the subject site are zoned A-2. Properties to the southeast of the subject site are located in the City of Los Angeles and are zoned [T] [Q] M3-1-0 (Heavy Industrial)
7. The subject site is presently developed as an operating Class III (non-hazardous) landfill.
8. Surrounding land uses consist of:
 - North: Open Space, 5-Freeway;
 - South: Open Space (Bee Canyon - containing 490 acres of permanent open space), gas storage fields, O'Melveny Park, City landfill, a 100-acre buffer area, beyond which are single-family homes in Granada Hills;
 - East: City portion of landfill, I-5 and SR-14 Freeways; and
 - West: Open Space (East Canyon – 430 acres of permanent open space)
9. The zoning history on the subject property include the following:

- *Compound Plan Amendment No. 90-2-(5) and Sub-Plan Amendment No. 86-312-(5)*

These amendments to the Los Angeles County General Plan were adopted by the Board of Supervisors in 1993 to allow for the extension of Sunshine Canyon landfill, an existing Class III landfill, into the unincorporated territory of the County of Los Angeles on the subject property. The landfill extension area of approximately 542 acres of land was located entirely within the land designated as Significant Ecological Area No. 20 - Santa Susana Mountains, on the County's General Plan. The Board amended the Los Angeles County General Development Policy Map, the Land Use Policy Map, the Special Management Areas Map, and Santa Clarita Valley Area Map. The subject site was re-designated to Non-Urban Hillside on the General Development Policy Map, Rural (Non-Urban) on the Land Use Policy Map, Hillside Management (HM) on the Special Management Areas and as HM on the Santa Clarita Valley Area Map. In the resolution adopted by the Board, among numerous other findings, it was found that the deleted SEA area represented approximately 2.5 % of SEA 20, that deletion of the area would not substantially inhibit gene flow and wildlife movement and that in light of the impending waste disposal crisis within the County of Los Angeles, the deletion of the area from the SEA was in the public interest (Finding No 11 of the Findings and Order of the County Board of Supervisors adopted on November 30, 1993).

| County General/ Local Plan Amendments 1993 | | |
|---|------------------------------|--------------------------|
| | <i>Changed From</i> | <i>To</i> |
| <i>General Development Policy Map</i> | Significant Ecological Areas | Non-Urban Hillside |
| <i>Land Use Policy Map</i> | Significant Ecological Areas | Rural (non-Urban) |
| <i>Special Management Areas</i> | Significant Ecological Areas | Hillside Management (HM) |
| <i>Santa Clarita Valley Area Plan</i> | HM/ SEA | HM |

The Board also re-designated the 542 acres of the subject landfill as a planned landfill extension site on the Solid Waste Management Plan Map.

- *Conditional Use and Oak Tree Permit No. 86-312-(5)*
 A Conditional Use Permit and an Oak Tree Permit were approved by the Board of Supervisors in 1993 to allow for the extension of Sunshine Canyon landfill into the unincorporated area of the County of Los Angeles. The approved landfill consists of a 215 acre landfill footprint with an estimated net airspace capacity of 16.9 million tons and an average daily waste disposal intake of 6,000 tons (36,000 tons per week based on a 6-day week). The Oak Tree Permit authorized the removal of an estimated 2,850 oak trees from the subject site in order to provide for the extension of the landfill into the County area. The conditions of approval include provisions for replacement of removed trees, protection of the remaining oak trees located on the subject site and a

program for the enhancement of the regional oak tree resources. An environmental impact report (EIR) was originally prepared which addressed the environmental impacts of a larger 215 million ton landfill within both the unincorporated area and the City of Los Angeles with alternatives thereto.

The Board initially approved the project on February 19, 1991 including certification of the Final EIR, adoption of plan amendments (Compound Plan Amendment 90-2-(5) and Sub-Plan Amendment 86-312-(5)) and approval of the requisite project permits (CUP and Oak Tree Permit 86-312-(5)) on Call for Review from the Regional Planning Commission's previous approval action on October 11, 1990. Following the County approvals, a lawsuit was filed by the North Valley Coalition of Concerned Citizens as well as the City of Los Angeles, challenging the Board's decision. The initial County approvals and permits were then vacated pursuant to a Peremptory Writ of Mandate by the Superior Court of California, County of Los Angeles on April 22, 1992. An Additional Environmental Analysis to the FEIR document was subsequently prepared by the County to bring the FEIR into compliance with the Writ. The Regional Planning Commission then held additional hearings on the project and again recommended approval to the Board of Supervisors on August 4, 1993. The Board, in turn, also held additional hearings and recertified the FEIR and re-approved the project including the plan amendment and the project permits on November 30, 1993.

The Board of Supervisors, in addition to approving a 16.9 million ton design, illustrated by a site plan marked Exhibit "A", also provided for an alternate design, illustrated by a site plan marked Exhibit "A" Alternate. Exhibit "A" Alternate recognized a combined City/County landfill estimated at 35 million tons on the County side with 70 million tons total. The design of the landfill on the city side was conceptual as it was unknown, at that time, what the City would actually approve. Further, as a condition of approval of the CUP, the Board required that the applicant diligently pursue appropriate entitlements from the City of Los Angeles to allow for the development of a joint City/County landfill. As directed, the applicant filed for the approval of a Plan Amendment and Zoning Ordinance #172933 to allow a landfill expansion in the City and a Subsequent Environmental Impact Report (SEIR) was prepared. Subsequently, the City Council granted the necessary entitlements in December 1999, allowing for the City and joint City/County landfill.

Exhibit "A" of CUP 86-312 is the approved County design which is currently being developed by the operator of the landfill reflecting an initial 16.9 million ton capacity increment approved by the County. However, Condition 10b. of the CUP stipulates the following:

"...Should the City of Los Angeles approve a fill design which, projected into unincorporated territory, would overlay the fill shown on Exhibit "A", without further action by the County to amend this grant the permittee may, as necessary to complete the City authorized design, extend the horizontal and vertical limits of fill in unincorporated territory to but not beyond those shown on

Sequence 2, Drawing 3A, revised February 4, 1991, attached as Exhibit “A” (Alternate)....”

As provided in the above-referenced condition the permittee is authorized to use a 42-acre bridge area only as necessary to complete a City authorized design that projects into County unincorporated territory and overlays the bridge area.

- *Conditional Use Permit 94-128*

Conditional Use Permit 94-128 was approved by the Board of Supervisors on March 5, 1996. The permittee proposed a modification to the previously approved CUP 86-312-(5). The applicant requested the deletion of condition 10d, which prohibited the disposal of trash generated within the City of Los Angeles. No other changes were sought by the applicant at the time. Condition 10d had its origins in a Memorandum of Cooperation and Joint Powers Agreement between the City and the County. The Agreements stated that if the City Parcel of the landfill had not been permitted for operation by January 1, 1993, then City-operated Solid Waste collection vehicles should be excluded from the County Parcel.

10. The Los Angeles County General Plan Land Use Policy Map currently designates the landfill portion (542 acres) of the property as Non-Urban. The remainder of the property is designated as SEA. The Santa Clarita Valley Area Plan Land Use map similarly depicts the subject site as Non-Urban Hillside Management and SEA.
11. The General Plan recognizes many non-residential uses can be located in a non-urban hillside management area. Waste disposal facilities are one of the uses that are allowed within these designated areas. The General Plan further states that new and expanded landfill sites shown on the plan maps are potential only and must be evaluated for possible impacts before actual approval. The General Plan states that “The criteria to be applied by the Regional Planning Commission in considering an application include the regional and local need for the specific waste facility as well as the potential impacts the use will have on the community. Regional need should not outweigh the impact on the community and potential hazards should be given greater consideration than the regional need.”
12. The Commission finds that the proposed modifications to Conditional Use Permit 86-312 do not meet the stated criteria. The Commission finds that a need for the waste facility exists, but that traffic impacts have not been mitigated to acceptable levels and that the lack of a specific closure date or a maximum tonnage limit will have significant negative impact on the community.
13. The Los Angeles County Department of Regional Planning determined that the proposed revisions required the preparation of an Addendum to the previously certified Final Environmental Impact Report, or FEIR, and also the City's Subsequent EIR.
14. Traffic impacts identified in the environmental documents as related to the landfill are located in the City of Los Angeles and have previously been determined

mitigated as required in the EIRs. The Commission finds that more vehicle trips will result from the proposed project causing new adverse traffic impacts.

15. As part of the proposed conditions, the applicant would be required to remit \$.50 per ton which would be used for traffic related mitigation in the future. The proposed fees to be used for traffic improvements will not resolve existing and future traffic impacts caused by the proposed modified landfill operation.
16. The Commission finds that the development of additional transfer stations, as a joint effort with the City of Los Angeles, would assist in reducing the number of vehicle trips and impacts on roadways surrounding the landfill.
17. While a requirement of the existing CUP 86-312, the Commission finds that the estimated 90 million ton capacity for the landfill will be exceeded depending on compaction rates for the material deposited at the landfill, thereby extending the life of the landfill.
18. The Commission received extensive correspondence opposed to the proposed project and also heard concerns from local residents and the North Valley Coalition, which represents surrounding communities, about traffic, other environmental impacts related to the project as well as a request for a finite closure date.
19. The Commission has recommended to the North Valley Coalition, in deliberations, to work with the City of Los Angeles, and try to find areas within the San Fernando Valley, where much of the waste going in to Sunshine Canyon Landfill is coming from, and identify where Materials Recovery Facilities may be located. This would limit the flow of trucks going to the landfill and help resolve the traffic situation.
20. The Commission is concerned that there are many uncertainties related to the proposed project, such as how many years the landfill will be operating and how much tonnage would be allowed to be placed in the County landfill.
21. The Commission visited and toured the landfill and surrounding areas on March 28, 2005.
22. The Commission is aware that there is a currently valid Conditional Use Permit, which will continue to allow landfilling on the County side. The terms and conditions of that CUP will continue to be in force including the implementation of condition 10b which will allow the landfill on the County side to increase its total capacity to approximately 35 million tons.
23. The Commission finds that while a need exists for the landfill, the modified project will not serve the needs of the local community as proposed and finds that the applicant has not met the Burden of Proof for a Conditional Use Permit.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

1. That the proposed use will not be consistent with the Los Angeles County General Plan; and
2. That the requested use at the proposed location will adversely affect the health, peace, comfort, and welfare of persons residing and working in the surrounding area, and will be materially detrimental to the use, enjoyment, and valuation of property of other persons located in the vicinity of the site, and will jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare;

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing does not substantiate the required findings and burden of proof for a Conditional Use Permit as set forth in Section 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

REGIONAL PLANNING COMMISSION ACTION:

1. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 00-194-(5) is **DENIED**.

VOTE:

Concurring:

Dissenting:

Abstaining:

Absent:

Action Date:

SD:MBM
12/14/2005

