



CITY OF HAYWARD AGENDA REPORT

Planning Commission
Meeting Date 02/25/99
Agenda Item 4

TO: Planning Commission

FROM: Sheldon McClellan, Senior Planner

SUBJECT: Zone Change Application No 98-190-11 - Landfill Management, Inc. (Applicant) - HBF Enterprises, Inc. (Owner) - Third request to modify conditions of approval for a planned development site to extend the time to complete this project by two years until December 31, 2000, to complete grading, capping and revegetating HBF Enterprises, Inc. portion of the West Winton Avenue landfill and to obtain authority to continue a concrete/asphalt recycling activity on the site for five years until December 31, 2003.

The property is located at 4001 West Winton Avenue, at the westerly terminus of West Winton Avenue adjacent to the San Francisco Bay.

RECOMMENDATION:

It is recommended that the Planning Commission:

1. Recommend to City Council that the project be found categorically exempt from CEQA;
2. Recommend to Council that the applicant be granted a time extension until December 31, 2000, to complete the project and continue the operation of a concrete/asphalt recycling activity on the site until December 31, 2003.

DISCUSSION:

Proposal/Background

The applicant is requesting a two-year extension of time or until the end of year 2000 for the completion of a landfill-capping project. The applicant is likewise requesting approval for the concrete and asphalt recycling activity to continue on site during this time extension period and while work is occurring on adjacent lands owned by HARD and Alameda County Flood Control & Water Conservation District. In any case, the termination date for the concrete and asphalt recycling activity would be no later than December 31, 2003.

Since the last public review of this project, TV20, KOFY Radio, et al was sold [FCC licenses and property formerly owned by Pacific FM, Inc. except for the Hayward shoreline site]. The title to the West Winton Avenue landfill property formerly known as the KOFY property, was changed from Pacific FM, Inc. to HBF Enterprises, Inc. of Sausalito, California. This property was not sold since the land is incumbered with the mandate from the San Francisco Regional Water Quality Control Board. The former owner of Pacific FM wanted to retain responsibility for the shoreline property and the completion of the work that is in progress. HBF Enterprises, Inc. is assuming all agreements and executions by Pacific FM, Inc. dba TV20, KOFY Radio, et al. The owner hired Landfill Management, Inc. (applicant) to do the site work to meet the requirements of the San Francisco Regional Water Quality Control Board (SFRWQCB). The radio antennas on the West Winton Avenue site have been leased to the Susquehanna company that owns many radio stations nationally that include KNBR in San Francisco and now KTCT AM Radio (sports talk format) that broadcasts on the 1050 frequency from the antennas located on the property. It should be noted that with the sale of Pacific FM, Inc. to Susquehanna, the previous request made by Pacific FM to erect a sixth antenna on the property (approved by City Council), is no longer required and has not been constructed.

The five 205-foot-high radio transmission towers located on the property were approved by City Council within a Planned Development District in 1986. The capping work is a condition of approval, which also meets a San Francisco Regional Water Quality Control Board mandate. The capping requirement of 3 feet of fill over the property is to prevent leaching of contaminated material from the former landfill into the bay and to provide enough cover to make the site attractive and usable for recreation purposes. A condition of the original approval required that an open-space easement to allow public access to and across the site be granted to a public agency upon completion of the capping project.

The applicant states that the project on the West Winton Avenue (former KOFY radio) site is "virtually" complete when reviewing the scope of work that has been done on the property. The western half of the property (approximately 60%) outlined on the attached site plan in green, is completed--that is, in sequence, the foundation layer of fill that creates the required slope and landfill cover, the capping material and the vegetative layer or topsoil which is hydroseeded with a specific grass/upland seed mixture. The eastern half of the property (approximately 40%), outlined in yellow on the attached map, has been graded to the final elevations (subgrade) and is ready for placement of the capping material layer and the hydroseed cover. This work will complete the project on the HBF Enterprises, Inc. (HBF) property. The main and secondary ditches are installed, depicted in red on the site plan, and drain surface water from the property to the bay through a tidegate.

The completion date of December 31, 1998 was calculated based on the import volumes of a steady amount of material that were established in 1994 and 1995. The applicant points out that those volumes have not since been matched, partly due to the diversion of fill material to local freeway projects, and due to the increasingly wet winters where less grading and construction has been done. The applicant was scheduled to place the final and remaining topsoil/vegetative layer the last fall; however, their supplier of vegetative material, Oro Loma Sanitary District, could not

harvest their shoreline vegetative material in the summer of 1998 because of the effects of El Niño. They fully expect to harvest and export to the site in this coming Summer of 1999. The exact timing is uncertain, and the final hydroseeding should coincide with the first or last rains of the season.

Landfill Management states that their accomplishments since the City last met on this item (February 26, 1996) are significant:

1. Approximately two thirds of the property is completely finished, and the remaining one third is at subgrade and ready for topsoil and hydroseed material.
2. The main and secondary collection ditches are installed, and are serving to drain surface water into the Bay by tidegate.
3. The entire northern border adjacent to HARD property has been prepared and a membrane installed to prevent any leachate seeps into the seasonal wetland to the north.
4. All concrete and asphalt stockpiles have been recycled and exported from the property, and the recycling operation is in equilibrium import vs. export.
5. The applicant has gone beyond the borders of the property and has done work on the adjoining Alameda County Flood Control & Water Conservation District property to the east of the HBF property. This site has been substantially filled and graded to conform to the grading plan, and to drain to the main collection ditch.

While the applicant states that they are several months away (depending on import volumes) from completing the work on the HBF property, the capping progress on the greater 165-acre former landfill, however, is far from over. HBF has a cap and drainage system on most of their 45 acres of the greater 165-acre landfill. Much of the rest of the landfill is still open. There is minimal cover on the HARD and ACFCWCD property to the south of the HBF property. The effect of this is that surface water (rainwater) percolates into the landfill. During the last year's El Niño event, the water table in the landfill rose so dramatically that Landfill Management's sealed ditch floated out of the ground on two occasions. This presented an immense repair expense as well as constant supervision in order to keep the ditch weighted and still emptying properly into the Bay.

The applicant believes that the solution to this problem is in place. They have agreements with both HARD and Alameda County Flood Control & Water Conservation Districts to use their protocols and import fill from customer base to fill and grade each property to the Regional Water Quality Control Board approved grading plans. This can be done at no expense to either District. The applicant has also secured liability insurance for 1999 to perform this work. The applicant believes that it has a fiduciary responsibility to HBF to properly operate and safeguard their considerable investment in permanent improvements, at least until such time as the adjacent landfill properties are filled and graded to properly drain surface water from the landfill.

The side business of crushing concrete and asphalt and the retail export of aggregate which was allowed by Council with the modification of the zone change application in 1992 is located on a small section in the northeast corner of the HBF property. The former stockpile of concrete and asphalt on the site has been processed and removed. All new concrete and asphalt rubble brought on site is processed and exported from the property as class II roadbase, and drain rock. The recycling operation is now kept in equilibrium import vs. export. The applicant states that this operation is essential to pay the expenses of the landfill work and is the only cashflow during the winter rain months when the import of fill dirt is minimal. Likewise, the operation is of benefit to the community, to both private citizens and the construction industry, and to local municipalities and agencies. It provides both sales tax revenue and AB939 Recycling credits to the City. The applicant states that it is an essential component of their operations in terms of fiscal requirements, the continuity of year-round operations, and the material to maintain the roadways, drainage swales, and the shoreline trail.

The applicant states that the present recycling plant will be replaced with a portable, high volume plant, which will be moved on and off site as required. The stockpiles of concrete and asphalt rubble to be recycled and the stockpiles of finished product will be maintained at minimum heights, and will be completely unobtrusive from either West Winton Avenue or the shoreline trail. The hours of operation will remain 7:00 AM to 3:30 PM, Monday through Friday, and a very occasional Saturday during peak demand.

Since that time, the operation of this side business has been on the property, it has not been a problem to the neighboring properties as far as staff knows. Likewise, West Winton Avenue has been able to absorb the number of generated truck trips from this business activity. The applicant's personnel are required to check the street twice daily and do any sweeping necessary to keep the street clean of debris.

The SFRWQCB was contacted and given a referral and they have verbally responded that they are generally pleased with the progress that has been made to date by the applicant on the HBF property and that they would like to see the project completed in the manner that has been outlined in past actions permitted by the City. They too are very hopeful that the applicant will be able to use the same resources to complete work on the adjoining HARD and ACFCWCD properties. The SFRWQCB believes that Landfill Management, Inc. is making a diligent effort to do this work and that the recent setbacks of not being able to secure adequate material and the problems stemming from El Niño storms should not be cause for this progress to be curtailed.

Environmental Review

Pursuant to Section 15301, Class 1(d) [Restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety] of the California Environmental Quality Act (CEQA) Guidelines, the proposed extension of time to complete the project is categorically exempt from environmental review since the project has not changed other than the time line to complete it and a Negative Declaration had been previously reviewed and approved in 1992 for the project.

On February 11, 1999, a notice of public hearing was published in The Daily Review and was mailed to property owners as noted on the latest assessor's records within 300 feet of the property.

If the City Council does not extend the dates for completion of the work required, the project will then be in violation of the conditions of approval, and is therefore, subject to revocation of the permit. Such action could require the removal of the radio towers and antennas. Nevertheless, the owner would still be required to fulfill the mandate of the SFRWQCB to cap the site. The owner, however at this point, may not be required to execute the easement to a public agency to allow public access across the property.

Prepared by:

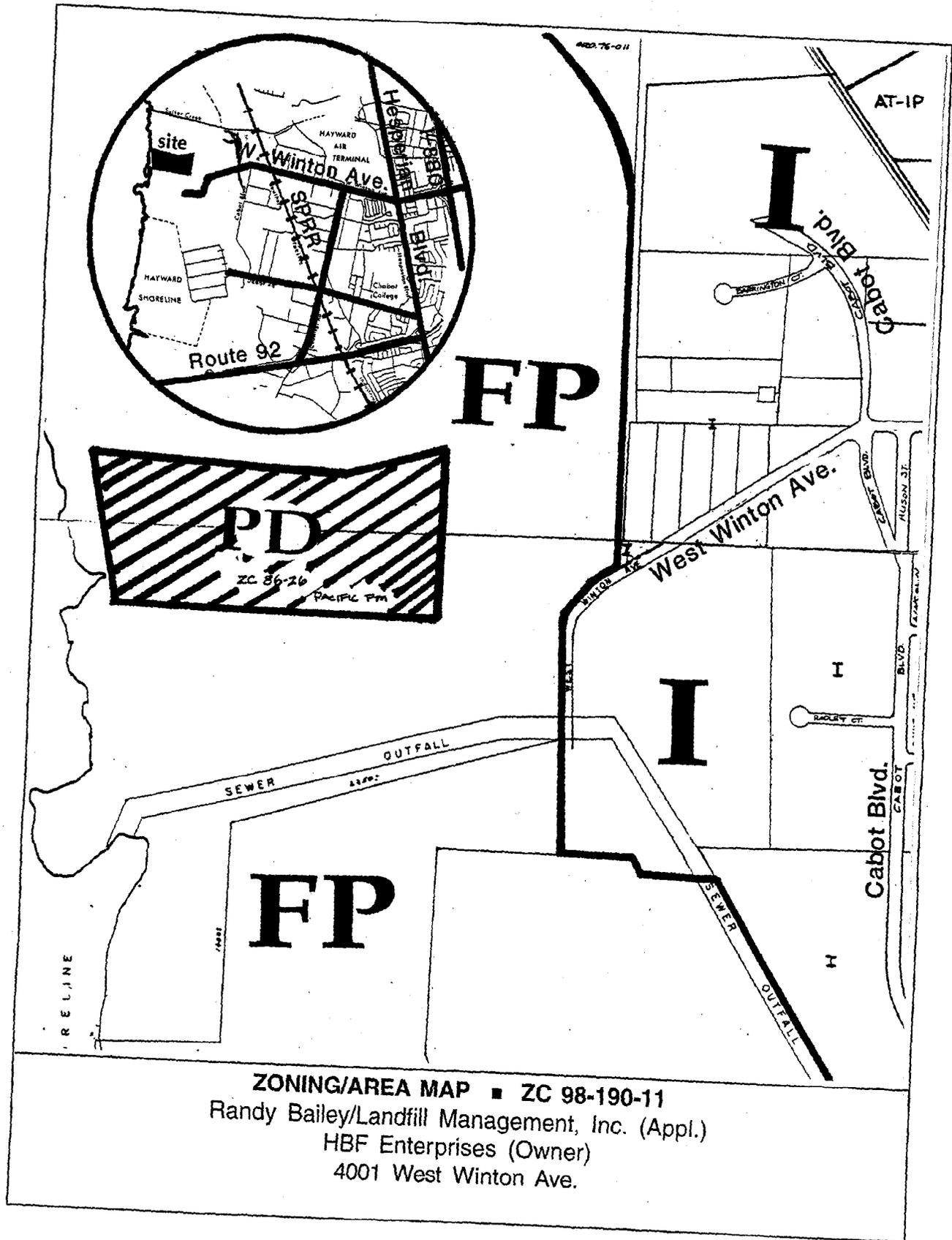
for *Dyana Anderly*
Sheldon R. McClellan
Senior Planner

Recommended by:

Dyana Anderly
Dyana Anderly, A.I.C.P.
Development Review Services Administrator

Exhibits:

- A - Area Map
- B - Findings for Approval
- C - Conditions of Approval
- D - Landfill Management, Inc. letter, dated December 5, 1998
- E - Revised Grading Plan - 1997 (Site Plan)



Findings For Approval

Zone Change Application No. 98-1190-11
Landfill Management, Inc. (Applicant)
HBF Enterprises, Inc. (Owner)

- A. That continuation of retail sales of crushed asphalt and concrete, and the extension of time within which to complete the project will have no significant impact on the environment, cumulative or otherwise, and is categorically exempt from environmental review under CEQA Guidelines;
- B. That the project is in substantial harmony with the surrounding area, which is undeveloped or industrial in nature, and the land conforms to the General Plan in that the project will enhance and preserve the shoreline and provide recreational opportunities along the shoreline;
- C. That the City streets continue to be adequate to serve the traffic related to the project; and
- D. That the landfill-capping project is temporary and the regrading of the property will be compatible with future open space and recreational type uses and will benefit the public since the land will be under the control of the Hayward Area Parks and Recreation District.

CONDITIONS OF APPROVAL

ZONE CHANGE APPLICATION NO. 98-190-11
LANDFILL MANAGEMENT, INC., APPLICANT

1. All improvements indicated on the approved precise plan, the original conditions of approval of the Planned Development, the adopted modified grading plan, the capping plan, and the landscaping requirement shall be completed no later than December 31, 2000.
2. Proof of compliance of the capping plan with the requirements of the San Francisco Regional Water Quality Control Board shall be provided to the City Development Review Services Division no later than December 31, 2000.
3. The operator of the concrete/asphalt crushing business shall maintain an up-to-date permit with the Bay Area Air Quality Management District and evidence of same shall be provided to the Development Review Services Division upon request.
4. The operation of the concrete/asphalt crushing business shall be allowed to continue on the site upon completion of the capping work conducted by Landfill Management, Inc. while work is in progress on the adjacent properties owned by HARD and Alameda County Flood Control District but no later than December 31, 2003.
5. Signs and personnel shall be employed during capping activities (when machinery is in use or trucks are entering or exiting the property) to guide visitors to the shoreline trail via the East Bay Regional Parks District access trail. Proof of staffing shall be provided to the Engineering Department prior to onset of crushing activity on a monthly basis.
6. The vehicle access routes shall be shown on the approved grading plan and shall thereafter be limited to those approved by the City Engineer. Truck access ways shall be sprinkled to reduce dust. Any desired change to the internal circulation plan shall be approved by the Engineering & Transportation Division prior to the change being made. Roadways shall be all-weather and provide access for emergency vehicles.
7. During the time that the concrete/asphalt crushing activity is taking place and while trucks are importing and exporting material to the site, water shall be available on site at all times and used on a regular, as needed basis to water down material to be crushed, materials loaded onto trucks, and truck tires to eliminate spread of dust and mud. During inclement weather, an area for washing the equipment and truck tires shall be constructed and maintained on the site and a sedimentation basin shall be provided to trap all silt.

8. Inspection shall be made twice daily of West Winton Avenue by staff employed by the applicant from the project site to the land now occupied by "Pick Your Part" to determine if there has been mud or dust deposited along the right-of-way by trucks entering subject. The property owner shall provide sweeping as necessary to provide safe access along this designated portion of West Winton Avenue. Evidence of inspection and sweeping shall be provided to the City Engineering Department on a weekly basis or as requested by the City Engineer.
9. Berms shall be constructed to screen the shoreline trail and West Winton Avenue from the concrete/asphalt crushing and related activities as required by the Planning Director. The plan for berming shall be approved by the Development Review Services Division.
10. Concrete/asphalt crushing and related activities shall be prohibited between 5:00 p.m. Friday and 7:00 a.m. Monday and on Mondays that are federal holidays. Weekday hours shall be limited to between 6:30 a.m. and 5:00 p.m. Weekend hours shall not be conducted unless prior approval is granted by the Planning Director.
11. Other than signs referred to in condition 4 above, signs required to deter trespassers and price signs posted where not visible from the street or shoreline trail, no other signs are permitted other than directional signs that are not visible from West Winton Avenue or the shoreline trail.
12. There shall be no more than an average of 40 trucks per day and no more than an average of 200 trucks per week entering and exiting the property.
13. Efforts shall be made to preserve any pickle weed found growing on the site in accordance with a plan approved by the City's Landscape Architect.
14. A construction entrance, in conformance with the City standard detail, SD-111, shall be maintained per the satisfaction of the City Engineer.
15. The existing excess stockpile of concrete and asphalt concrete material shall be removed from the site--except for material stored on the proposed "table-top" working area in the northeast corner, which has an approximate top elevation of 25-feet--by March 31, 1997. Thereafter, the total excess quantity of concrete and asphalt concrete material on-site shall not exceed that amount which can reasonably be processed in three months (approximately 45,000 cubic yards of finished product.)
16. Provisions for fueling the heavy diesel powered equipment shall be implemented in accordance with the Uniform Fire Code.
17. All outdoor storage areas shall be designed to reduce/limit the potential for runoff to contact pollutants. Bulk materials stored outdoor may need to be covered and/or placed in containment areas as deemed appropriate by the City Engineer.

18. All landscaping shall be properly maintained and shall be designed to reduce runoff. No fertilizers and pesticides which can contribute to runoff pollution shall be used.
19. All cut and fill slopes shall be stabilized as soon as possible after completion of grading. No site grading shall occur between October 15 and April 15 unless approved erosion control measures are in place.
20. The revised grading plan shall be submitted for approval by the City Engineer.
21. The small leachate seep in the unfilled area at the northern property line, which was identified by the San Francisco Water Quality Control Board, shall be filled per the Army Corps of Engineer's permit.
22. The western area adjacent to the shoreline trail shall be hydro-seeded following the first winter rains.
23. The applicant shall apply for and obtain a Storm Water Permit from the City, in compliance with NPDES storm water regulations.
24. The contractor shall continuously monitor all the ditches around the stockpile area to ensure that during the rainy season, water flowing through all ditches are clear. In the event that the water starts to become murky, the contractor shall install the sediment controls, such as silt fences, straw bales, wattles or other equivalent controls.
25. The contractor shall have on-site sediment controls materials available to be used any time when needed.
26. Except where superseded by these conditions, all conditions of the Planned Development (ZC 86-26) shall remain in effect.